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Rebecca McDowell Cook

Secretary of State

MISSOURI REGISTER

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MISSOURI REGISTER

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BID OPENINGS

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
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March 15, 2000	**April 17, 2000**	April 30, 2000	May 30, 2000
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Nov. 1, 2000	**Dec. 1, 2000**	Dec. 31, 2000	Jan. 30, 2001
Nov. 15, 2000	**Dec. 15, 2000**	Dec. 31, 2000	Jan. 30, 2001

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 24, *Missouri Register*, page 27. The approved short form of citation is 24 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement

PROPOSED AMENDMENT

1 CSR 40-1.010 Organization. The department proposes to amend this rule by deleting subsection (2)(D).

PURPOSE: This rule is being amended to delete those functions which have been transferred within the Office of Administration from the Division of Purchasing and Materials Management to the Office of Equal Opportunity.

(2) In addition to procurement activities, the division is also responsible for the following activities:

(B) Operation of the cooperative procurement program for political subdivisions of the state; **and**

(C) Coordination of the state recycling program.*[; and]*

[(D) Certification of Minority and Women Business Enterprises.]

*AUTHORITY: sections 34.050[, RSMo Supp. 1997] and 536.023, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Purchasing and Materials Management, Attention: Joan M. Wilson, P.O. Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement

PROPOSED AMENDMENT

1 CSR 40-1.030 Definitions. The department proposes to amend this rule by changing subsection (1)(N) and deleting subsection (1)(G) and (1)(L) and renumbering the remaining sections.

PURPOSE: This rule is being amended to include Single Feasible Source in the definition of Solicitation and to delete definitions that are no longer needed due to the transfer of duties within the Office of Administration from the Division of Purchasing and Materials Management to the Office of Equal Opportunity.

(1) As used in this chapter unless the content clearly indicates otherwise, the following terms shall mean:

[(G) Joint Venture. An association of two (2) or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge;]

*[(H)]***(G)** Minority. The definition contained in section 33.750, RSMo is incorporated by reference;

*[(I)]***(H)** Minority business enterprise (MBE). The definition contained in section 37.020, RSMo is incorporated by reference;

*[(J)]***(I)** Multiple award. A purchase order or contract awarded to two (2) or more bidders required to meet the needs of agencies;

*[(K)]***(J)** OA. The Office of Administration;

[(L) On-site review. The observation of the vendor in its normal business surroundings by such means as visual observation, verbal questions, and a determination of the general pattern of operations of the vendor;]

*[(M)]***(K)** Performance security. A financial guarantee that the successful bidder will complete the contract as agreed;

*[(N)]***(L)** Solicitation. The process of notifying prospective bidders that the state wishes to receive bids or proposals to provide supplies. The term includes request for proposal (RFP), request for quotation (RFQ), invitation for bid (IFB)**, single feasible source (SFS)** and any other appropriate procurement method;

*[(O)]***(M)** State. The state of Missouri;

*[(P)]***(N)** Suspension. An exclusion from contracting with the state for a temporary period of time; and

*[(Q)]***(O)** Women business enterprise (WBE). The definition contained in section 37.020, RSMo is incorporated by reference.

*AUTHORITY: section 34.050, RSMo [Supp. 1997] **Supp. 1999**. Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

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Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement

PROPOSED AMENDMENT

1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts. The department proposes to amend this rule by inserting new subsections (2)(C) and (3)(C), relettering the succeeding subsections, amending subsections (2)(A), (3)(A), (6)(B), (7)(C), (7)(G) and adding sections (9) and (10).

PURPOSE: This rule is being amended to include guidelines for the acceptance of a late bid, for utilization of electronic bidding, for award protest procedures, for clarification of the application of the preference for products produced by organizations for the blind and sheltered workshops, and for the inclusion of minorities and women in the procurement process.

(2) When the procurement is estimated to be twenty-five thousand dollars ($25,000) or more, a formal method of solicitation must be utilized. Formal competitive bidding may be accomplished by utilizing an Invitation for Bid (IFB).

(A) Formal bids should be received in the division **or a secured electronic database** in a sealed format by the time set for the opening of bids.

(C) Under extraordinary circumstances, the director or designee, may authorize the opening of a late bid. In such cases, the bid must have been turned over to the physical control of an independent postal or courier service with promised delivery time prior to the time set for the opening of bids. All such decisions are at the sole discretion of the director or designee. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance:

1. State offices were closed due to inclement weather conditions;

2. Postal or courier services were delayed due to labor strikes or unforeseen "Acts of God";

3. Postal or courier service did not meet delivery time promised to the bidder. In such a case, the bidder must provide written proof that promised delivery time was prior to the time set for the opening of bids.

*[(C)]***(D)** Bids received in response to an IFB shall be available for public review after the bid opening during regular working hours.

*[(D)]***(E)** When the division decides that all bids are unacceptable and circumstances do not permit a rebid, negotiations may be conducted with only those bidders who submitted bids in response to the IFB. No additional bidders may be solicited. Upon determination that negotiations will be conducted, the bids and related documents will be closed to public viewing in accordance with section 610.021, RSMo.

(3) When the procurement requires the utilization of competitive negotiation, the formal Request for Proposal (RFP) solicitation method should be utilized.

(A) Formal proposals should be received in the division **or a secured electronic database** in a sealed format by the time set for the opening of the proposals.

(C) Under extraordinary circumstances, the director or designee, may authorize the opening of a late bid. In such cases, the bid must have been turned over to the physical control of an independent postal or courier service with promised delivery time prior to the time set for the opening of bids. All such decisions are at the sole discretion of the director or designee. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance:

1. State offices were closed due to inclement weather conditions;

2. Postal or courier services were delayed due to labor strikes or unforeseen "Acts of God";

3. Postal or courier service did not meet delivery time promised to the offeror. In such a case, the offeror must provide written proof that promised delivery time was prior to the time set for the opening of proposals.

*[(C)]***(D)** Proposals received in response to an RFP shall not be available for public review until after a contract is executed or all proposals are rejected.

*[(D)]***(E)** Offerors who obtain information concerning a competitor's proposal may be disqualified for consideration for a contract award.

(6) When circumstances dictate that it would be most advantageous, the state may purchase supplies from or in cooperation with another governmental entity.

(B) Supplies purchased in cooperation with another governmental entity may be purchased *[from]* **based on** contracts established in accordance with that entity's laws and regulations.

(7) Regardless of the solicitation method utilized, the following procedures shall apply:

(C) The division may require bid/proposal security and/or performance security.

1. The acceptable form and amount of the bid/proposal security shall be stipulated in the solicitation document.

2. The bid/proposal securities of unsuccessful vendors may be returned after the finalization of the award. If the successful vendor fails to accept the contract, the amount of the bid/proposal security *[shall]* **may** be forfeited to the state.

3. If a performance security is required, the bid/proposal security of the successful vendor may be returned after the receipt of the performance security. The acceptable form and amount of the performance security will be stipulated in the solicitation document. If the contractor fails to submit the performance security as required, the bid/proposal security *[shall]* **may** be forfeited to the state and the contract shall be void;

(G) Bids/proposals submitted *[by qualified organizations for the blind and sheltered workshops]* **for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind or in sheltered workshops**

holding a certificate of approval from the Missouri Department of Elementary and Secondary Education shall be entitled to five (5) bonus points in addition to other points awarded during the evaluation process. *[Qualified bidders should notify the division of their status upon submittal of their bid/proposal]* **Bidders should notify the division if the products or services included in the bid meet these qualifications for bonus points**;

(9) The division will encourage participation in the procurement process and fairness in consideration of bids/proposals submitted by Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs). Programs/procedures designed to accomplish these objectives may include: inclusion of MBE/WBE subcontractor requirements in solicitation documents, close review of requirements for bonding, targeted notice of procurement opportunities, utilization of minority and women personnel on evaluation committees, etc.

(10) A bid or proposal award protest must be submitted in writing and must be received by the division within ten (10) calendar days after the date of award. If the tenth day falls on a Saturday, Sunday or state holiday, the period shall extend to the next state business day. A protest submitted after the ten (10) calendar day period shall not be considered. The written protest should include the following information:

(A) Name, address, and phone number of the protester;

(B) Signature of the protester or the protester's representative;

(C) Solicitation number;

(D) Detailed statement describing the grounds for the protest; and

(E) Supporting exhibits, evidence, or documents to substantiate claim.

*AUTHORITY: section 34.050, RSMo [Supp. 1997] **Supp. 1999**. Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

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Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement

PROPOSED AMENDMENT

1 CSR 40-1.060 Vendor Registration, *[Official Mailing Lists]* ***Notification of Bidding Opportunities*****, Suspension and Debarment**. The department is amending the Title, Purpose, sections (1), (3), (4), and subsections (5)(A) and (6)(A).

PURPOSE: This rule is being amended to incorporate technological advances utilizing Internet based vendor registration and solicitation notification.

*PURPOSE: This rule describes procedures for [registering] vendor [for inclusion on the official mailing lists] **registration, vendor notification of bidding opportunities** and procedures for suspension and debarment of vendors.*

(1) Any individual, business or organization may *[submit a vendor registration application to the division]* **complete a vendor registration** in order to be added to the official vendor data base. *[Proof of financial stability and reliability must be furnished if requested.]* It is the vendor's sole responsibility to *[notify the division in writing of any subsequent change of fact set forth in the application including, but not limited to company ownership, officers, address, or federal employer identification number]* **update their vendor registration information**.

(3) Registered active vendors will be selected from the official vendor data base and *[placed on solicitation mailing lists]* **notified of bidding opportunities** on rotational basis. *[The solicitation mailing list]* **Notification** is not limited to registered vendors.

(4) If a vendor fails to respond to three (3) consecutive solicitation documents for the same class of item, the vendor's registration for that specific class of item may be inactivated. *[The vendor shall be mailed a formal notice of inactivation.]* The vendor may *[request]* **effect** reactivation by *[contacting the division]* **updating their vendor registration information**.

(5) The director, or designee, may suspend a vendor for cause. The vendor shall be mailed a formal notice of suspension outlining the reasons for, the specific conditions of, and the effective period of the suspension. Upon completion of the suspension period it shall be the responsibility of the vendor to request reinstatement if desired. A request for reinstatement should be made in writing.

(A) *[The suspended vendor shall be removed from all solicitation mailing lists and a]* **A**ny bids/proposals submitted by the **suspended** vendor shall not be considered.

(6) The director may debar a vendor whenever, in the director's sole discretion, it is in the best interest of the state to do so. A vendor may be debarred for a single incident of serious misconduct or after multiple less serious incidents. The director shall notify the vendor of the reason for debarment and any action the vendor must take in order to be found eligible to contract again.

(A) *[The debarred vendor shall be removed from all solicitation mailing lists and a]* **A**ny bids/proposals submitted by the **debarred** vendor shall not be considered.

*AUTHORITY: section 34.050, RSMo [Supp. 1997] **Supp. 1999**. Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

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Title 1—OFFICE OF ADMINISTRATION

[Division 40—Purchasing and Materials Management] ***Division 10—Commissioner of Administration***

[Chapter 1—Procurement] ***Chapter 17—Office of Equal Opportunity***

PROPOSED AMENDMENT

[1 CSR 40-1.070] ***1 CSR 10-17.050*** **Minority/Women Business Enterprise Participation in Procurement Process**. The department proposes to amend this rule by transferring it to 1 CSR 10-17.050 and amending sections (1), (2), (3), (4), (5), (7), and (9).

PURPOSE: This rule is being amended because the functions included in this rule have been relocated within the Office of Administration from the Division of Purchasing and Materials Management to the Office of Equal Opportunity.

(1) The *[division]* **Office of Equal Opportunity (OEO)** will provide assistance to Minority Business Enterprises/Women Business Enterprises (MBE/WBEs). Services provided may include but are not necessarily limited to: workshops, bid history and pricing abstracts, minority vendor registration, exposure to state agency's procurement staff and contracting opportunities, MBE/WBE directory and newsletter to promote increased participation.

(2) The *[division]* **OEO** will encourage participation in the procurement process and fairness in consideration of bids/proposals submitted by MBE/WBEs. Programs/procedures designed **by the OEO** to accomplish these objectives may include: providing diversity training for state procurement personnel, *[utilization of]* **identifying** minority and women personnel **to serve** on evaluation committees, closely reviewing the requirements for bonding, *[targeted notice]* **notification** of procurement opportunities, etc.

(3) The *[division]* **OEO** will compile, maintain and make available a directory of MBE/WBEs. The directory shall be available, upon request, to all bidders and contractors. The directory shall specify the name of the MBE/WBE, the commodities or services it provides, its address, phone number and contact person.

(4) The *[division]* **OEO** will establish MBE/WBE participation goals and programs in accordance with section 37.020, RSMo, any successor or similar statutes, or executive order based upon a study to determine the availability of qualified MBE/WBEs and any other pertinent information. MBE/WBE participation goals and programs shall be reviewed periodically to ascertain the need for continuance or revision of existing programs or the implementation of new programs.

(5) The *[division]* **OEO** may *[establish]* **recommend** MBE/WBE subcontracting goals *[and may require that bidders/offerors make a good faith effort to subcontract with MBE/WBEs]*. The *[division]* **OEO** may *[designate]* **recommend** those types of solicitations in which MBE/WBE subcontracting requirements *[would]* **may** be appropriate.

(7) After the contract is established, the *[division]* **OEO** may monitor the activity of the contractor to assure compliance with the MBE/WBE utilization stipulated in their contract. *[The division may require the submission of regular reports from contractors documenting their MBE/WBE utilization.]*

(9) The *[division]* **OEO** shall maintain statistics and issue periodic reports about MBE/WBE participation.

*AUTHORITY: sections 34.050, RSMo [Supp. 1997] **Supp. 1999** and 37.020, RSMo 1994. Original rule filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Purchasing and Materials Management, Attention: Joan M. Wilson, P.O. Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 1—OFFICE OF ADMINISTRATION

[Division 40—Purchasing and Materials Management] ***Division 10—Commissioner of Administration***

[Chapter 1—Procurement] ***Chapter 17—Office of Equal Opportunity***

PROPOSED AMENDMENT

[1 CSR 40-1.080] ***1 CSR 10-17.040*** **Minority/Women Business Enterprise Certification**. The department proposes to amend this rule by transferring it to 1 CSR 10-17.040 and amending the Purpose, and sections (1), (2), (2)(B), (2)(C), (2)(D), (3), (5), (6), (6)(B), (6)(D), (8), (8)(A), (8)(D) and (8)(E).

PURPOSE: This rule is being amended because the functions included in this rule have been relocated within the Office of Administration from the Division of Purchasing and Materials Management to the Office of Equal Opportunity.

*PURPOSE: This rule establishes a program by which Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) may be certified by the [division] **Office of Equal Opportunity (OEO)**.*

(1) The following standards shall be used by the *[division]* **Office of Equal Opportunity (OEO)** in determining whether an individual, business, or organization is eligible to be certified as a Minority Business Enterprise/Women Business Enterprise MBE/WBE. The list is not meant to be all inclusive but shall serve as a guideline for certification of MBE/WBEs.

(2) Any individual, business, or organization desiring certification as an MBE or WBE shall submit an MBE/WBE Certification Application and required documentation to the *[division]* **OEO**.

(B) MBE/WBE applicants which have been certified by an organization which maintains a certification memorandum of understanding with the Office of Administration may be certified by the *[division]* **OEO** based upon their previous certification. In such case, the MBE/WBE must provide proof of certification.

(C) Certification by another state or organization does not guarantee certification by the *[division]* **OEO**.

(D) All applications shall be reviewed by the *[division]* **OEO** and approved or denied.

1. The *[division]* **OEO** may conduct an on-site review at the applicant's place of business to verify status as a certifiable MBE/WBE. The state is not required to conduct on-site reviews if such review would require that the *[division]* **OEO** incur unreasonable expenses to verify eligibility for certification. An example of an unreasonable expense would be travel outside the state of Missouri for an on-site review.

2. The *[division]* **OEO** may require the applicant to submit documentation deemed necessary to determine eligibility for certification as an MBE/WBE. Examples of required documentation may include: proof of minority or female status, initial capital contribution information, income tax returns, partnership agreement, articles of incorporation, proof of ownership, etc.

(3) After certification, the MBE/WBE must notify the *[division]* **OEO** of any changes of fact set forth in their application including, but not limited to: company ownership, officers, address, organizational structure, etc.

(5) The *[division]* **OEO** may revoke certification of an MBE/WBE. The following list shall serve as a guideline for revocation determinations (it is not intended to be all inclusive):

(6) Any certified MBE/WBE desiring certification of a joint venture shall submit an application and required documentation to the *[division]* **OEO**.

(B) The *[division]* **OEO** may require the applicant to submit documentation deemed necessary to determine eligibility for certification as a joint venture. Examples of required documentation may include: copy of the joint venture agreement and copy of certification issued to MBE/WBE participant.

(D) Any changes proposed in the joint venture agreement must be filed with and approved by the *[division]* **OEO** prior to the implementation of the changes in order to maintain certification.

(8) Third parties who have reason to believe that an enterprise has been wrongly denied or granted certification as an MBE/WBE or joint venture may file a third party challenge with the *[division]* **OEO**. Challenges by third parties are not considered an appeal.

(A) The third party challenge must be submitted in writing along with supporting documentation in sufficient detail to support the allegations. The *[division]* **OEO** may require additional documentation from the challenger.

(D) The MBE/WBE will be notified in writing that a challenge has been received by the *[division]* **OEO**.

(E) The *[division]* **OEO** will investigate the challenge and issue a written decision.

*AUTHORITY: section 37.023, RSMo [Supp. 1997] **Supp. 1999**. Original rule filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Purchasing and Materials Management, Attention: Joan M. Wilson, P.O. Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of School Services
Chapter 261—Pupil Transportation

PROPOSED RESCISSION

5 CSR 30-261.045 Pupil Transportation in Vehicles Other Than School Buses. This rule was approved to authorize vehicles other than approved school buses to be used for transportation of students.

PURPOSE: Since the adoption of this rule, the National Highway Safety Board has recommended that all vehicles carrying more than ten (10) passengers and transporting children to and from school and school related activities meet the school bus structural standards or the equivalent as set forth in 49 CFR Part 571. In addition, 5 CSR 30-261.010 was revised in 1999; and provisions of this rule are no longer appropriate.

AUTHORITY: section 304.060, RSMo 1994. This rule was previously filed as 5 CSR 40-261.045. Original rule filed Sept. 15, 1977, effective Jan. 16, 1978. Amended: Filed July 23, 1987, effective Oct. 25, 1987. Amended: Filed May 23, 1991, effective Dec. 9, 1991. Amended: Filed Aug. 31, 1992, effective April 8, 1993. Emergency rule filed June 26, 1996, effective July 6, 1996, expired Jan 1, 1997. Amended: Filed July 9, 1996, effective Feb. 28, 1997. Rescinded: Filed March 22, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivision more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Elementary and Secondary Education, Gary Dixon, Director, School Governance, P.O. Box 480, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of School Services
Chapter 261—Pupil Transportation

PROPOSED RULE

5 CSR 30-261.045 Pupil Transportation in Vehicles Other Than School Buses

PURPOSE: Section 304.060, RSMo, authorizes vehicles other than approved school buses to be used for transportation of students. This rule establishes standards for transportation in other than approved school buses.

(1) Requirements for transportation of students in vehicles designed for transporting more than ten (10) passengers including the driver.

(A) After July 1, 2001, newly purchased, newly leased, newly contracted vehicles or vehicles replaced under contracted services with a rated capacity, as defined by the manufacturer, to carry more than ten (10) passengers including the driver that are used to transport students to or from school or to transport students to or from any place for educational purposes or school purposes shall meet state and federal specification and safety standards applicable to school buses. Contract common carriers meeting federal Department of Transportation standards may be used for field trips as outlined in section (3) of this rule.

(2) Requirements for transportation of students in vehicles designed for transporting ten (10) passengers or less including the driver.

(A) The number of passengers, including students and driver, that may be transported at any one (1) time shall be limited to the

number the manufacturer suggests as appropriate for that vehicle in accordance with section 304.060, RSMo, or if not posted in the vehicle, then limited to the number of seat belts in the vehicle.

(B) The driver and each passenger shall be properly secured with the appropriate seat restraint at all times while the vehicle is in motion.

(C) Motor vehicles designed for enclosed passenger transportation may be used subject to approval by the local board of education.

(D) Motor vehicles shall be licensed according to law and shall display a current state safety inspection sticker.

(E) The driver of a district owned or district contracted vehicle shall have a valid Missouri operator's license for the motor vehicle and comply with section 302.272, RSMo, and 5 CSR 30-261.010(2)(A)1.–3., not to include a parent or guardian transporting only their children under a written contract with the district and who is not compensated by the district. The parent or guardian shall have a valid Missouri operator's license for the vehicle operated as per 5 CSR 30-261.010(2)(A).

(F) The driver of a privately owned vehicle who is not compensated by the school district to transport students to and from school or school related events shall have a valid Missouri operator's license for the vehicle operated as per 5 CSR 30-261.010(2)(A). This shall include any person who transports school children as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator as per section 302.010 (19), RSMo. Compensation shall be defined for the purpose of this section as any reimbursement received by the driver that exceeds the average cost of operating a car per mile as established by the American Automobile Association.

(G) Motor vehicles shall have liability insurance coverage in accordance with section 537.610, RSMo, and as required by the local board of education.

(H) When transportation service in motor vehicles other than those licensed as school buses is contracted, there shall be a written contract between the district and the individual or firm providing the service.

(3) Requirements for Transportation of Students in Authorized Common Carriers.

(A) Authorized common carriers shall only be used to transport students to and from field trips or other special trips for educational purposes and shall not be used to transport students to and from school. Authorized common carriers, as used in this rule, are over-the-road intercity-type coaches equipped with reclining seats, air conditioning and restroom facilities, and holding authority from the Missouri Department of Economic Development, Division of Motor Carrier and Railroad Safety or the Federal Motor Carrier Safety Administration.

(B) There shall be a written contract between the district and individual or firm providing the vehicle.

(C) All contracts with authorized common carriers shall include:

1. Proof of liability insurance in the amount of five (5) million dollars per accident; and

2. Proof of safety inspection and compliance with applicable Federal Motor Carrier Safety Regulations.

(D) The driver of an authorized common carrier shall hold a valid Missouri commercial driver's license or a similar license valid in any other state and shall comply with all applicable driver qualifications of the Federal Motor Carrier Safety Regulations.

AUTHORITY: section 304.060, RSMo 1994. This rule was previously filed as 5 CSR 40-261.045. Original rule filed Sept. 15, 1977, effective Jan. 16, 1978. Amended: Filed July 23, 1987, effective Oct. 25, 1987. Amended: Filed May 23, 1991, effective Dec. 9, 1991. Amended: Filed Aug. 31, 1992, effective April 8, 1993. Emergency rule filed June 26, 1996, effective July 6, 1996, expired Jan. 1, 1997. Amended: Filed July 9, 1996, effective Feb. 28, 1997. Rescinded and readopted: Filed March 22, 2000.

PUBLIC COST: This proposed rule is estimated to cost public entities $2,574,000 over a fifteen (15)-year period of time beginning with the 2002 Fiscal Year. A fiscal note containing the estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Elementary and Secondary Education, Gary Dixon, Director, School Governance, P.O. Box 480, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. 5 CSR 30-261.045

Title: 5 – Department of Elementary and Secondary Education

Division: 30 – Division of School Services

Chapter: 261 – Pupil Transportation

II. 5 CSR 30-261.045 Pupil Transportation in Vehicles Other Than School Buses

III. SUMMARY OF FISCAL IMPACT

Estimate the number of potential van replacements which may be affected by the adoption of the proposed rule.	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
104	$2,574,000 over a fifteen (15) year period of time beginning in Fiscal Year 2002.

IV. WORKSHEET

A nineteen (19) passenger school bus costs $33,000. Seventy-five percent (75%) of $33,000 = $24,750 which is reimbursed to the school district over an eight (8) year depreciation cycle. A $24,750 depreciation payment for each van replaced with a nineteen (19) passenger school bus x 104 van replacements = $2,574,000.

V. ASSUMPTIONS

The Department of Elementary and Secondary Education reimburses school districts a percentage of the cost of a school bus. When the transportation formula is fully funded, the school district will be reimbursed seventy-five percent (75%) of the cost of the buses over an eight (8) year period. School districts may choose to replace vans with small school buses because of this proposed rule and thus the Department would reimburse the school districts for the buses purchased. We anticipate that any van replacements would be concluded within fifteen (15) years.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.010 Prevailing Wage Rates for Public Works Projects. The Division of Labor Standards is deleting from the *Code of State Regulations* the form following the rule.

PURPOSE: This amendment removes the form following the rule from the ***Code of State Regulations****.*

AUTHORITY: section 290.240(2), RSMo [1994] ***Supp. 1999****. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 27, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards; Attn: Colleen Baker, Director; P.O. Box 449; Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 4—Minimum Wage and Overtime Rules

PROPOSED AMENDMENT

8 CSR 30-4.030 Training Wage for Learners and Apprentices. The Division of Labor Standards is deleting from the *Code of State Regulations* the form following the rule.

PURPOSE: This amendment removes the form following the rule from the ***Code of State Regulations****.*

AUTHORITY: sections 290.512, 290.515 and 290.517, RSMo [Cum. Supp. 1990] ***1994****. Original rule filed July 22, 1992, effective Feb. 26, 1993. Amended: Filed March 27, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards; Attn: Colleen Baker, Director; P.O. Box 449; Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register.*** *No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.010 Signs and Markers—General Requirements. The commission is amending section (6).

PURPOSE: The purpose for this amendment is to clarify a citation of a term.

(6) Buffer Zone Markers. Buffer zones**, as defined in 10 CSR 40-8.010(1)(A)13.,** shall be marked along their boundaries as required under 10 CSR 40-3.040(18).

AUTHORITY: section 444.530, RSMo [1994] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.020 Requirements for Casing and Sealing of Drilled Holes. The commission is amending sections (1) and (3).

PURPOSE: The purpose for this amendment is correct rule citations.

(1) General Requirements. Each exploration hole, other drill or borehole, well or other exposed underground opening shall be cased, sealed or otherwise managed, as approved in the permit and plan, to prevent acid or other toxic drainage from entering ground or surface waters, to minimize disturbance to the prevailing hydrologic balance and to ensure the safety of people, livestock, fish and wildlife, and machinery in the mine plan and adjacent area. If these openings are uncovered or exposed by surface mining activities within the permit area, they shall be permanently closed, unless approved for water monitoring or otherwise managed in a manner approved in the permit and plan. Use of a drilled hole or borehole or monitoring well as a water well must meet the provisions of 10 CSR 40-3.040*[(13)]***(14) and those of the Wellhead Protection Section, Division of Geology and Land Survey, at 10**

CSR 23, Chapter 6. This section does not apply to holes solely drilled and used for blasting.

(3) Permanent Casing and Sealing. When no longer needed for monitoring or other use approved in the permit and plan, upon a finding of no adverse environmental or health or safety effect, or unless approved for transfer as a water well under 10 CSR 40-3.040*[(13)]***(14) and those of the Wellhead Protection Section, Division of Geology and Land Survey, at 10 CSR 23, Chapter 6**, each exploration hole, other drilled hole or borehole, well and other exposed underground opening shall be capped, sealed, backfilled or otherwise properly managed, as required in the permit and plan under section (1) of this rule and consistent with 30 CFR 75.1711. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock, fish and wildlife and machinery and to keep acid or other toxic drainage from entering ground or surface waters.

AUTHORITY: section 444.530, RSMo [1994] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.040 Requirements for Protection of the Hydrologic Balance. The commission is amending sections (2), (4), (6), (8), (10), (13), (14) and (17).

PURPOSE: The purpose of this amendment is to make the rule at least as effective as its federal counterparts, reflecting recent changes in the federal rules; and to correct omissions, citations, and other referenced material that needs to be updated.

(2) Water Quality Standards and Effluent Limitations.

(A) General Limitations.

1. All surface drainage from the disturbed area, including disturbed areas that have been graded, seeded or planted, shall be passed through a *[sedimentation pond]* **siltation structure** or a series of *[sedimentation ponds]* **siltation structures** before leaving the permit area.

2. *[Sedimentation ponds]* **Siltation structures** and other treatment facilities shall be maintained until the disturbed area has been restored and the vegetation requirements of 10 CSR 40-3.120 are met and the quality of the untreated drainage from the disturbed area meets the applicable state and federal water quality standards and requirements for the receiving stream.

3. Exemptions may be granted in the permit and plan from these requirements only when—

A. The disturbed drainage area within the total disturbed area is small; and

B. The person who conducts the surface mining activities demonstrates that *[sedimentation ponds]* **siltation structures** and treatment facilities are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations *[in the following table and]* **of** the applicable state and federal water quality standards for downstream receiving waters.

4. For the purpose of this section only, disturbed area shall not include those areas in which only diversion ditches, *[sedimentation ponds]* **siltation structures** or roads are installed in accordance with this chapter and the upstream area is not otherwise disturbed by the person who conducts the surface mining activities.

5. *[Sedimentation ponds]* **Siltation structures** required by this section shall be constructed in accordance with section (6) of this rule, in appropriate locations before beginning any surface mining activities in the drainage area to be affected.

6. Where the *[sedimentation pond]* **siltation structure** or series of *[sedimentation ponds]* **siltation structures** is used so as to result in the mixing of drainage from the disturbed areas with drainage from other areas not disturbed by current surface coal mining and reclamation operations, the permittee shall achieve the effluent limitations set forth in the following for all of the mixed drainage when it leaves the permit area.

(4) Stream Channel Diversions.

(A) Flow from perennial and intermittent streams within the permit area may be diverted if the diversions—

1. Are approved in the permit and plan if the requirements in subsection *[(17)(A)]* **(18)(A)** of this rule are found;

2. Comply with other requirements of this chapter and 10 CSR 40-4; and

3. Comply with local, state and federal statutes and regulations.

(B) When streamflow is allowed to be diverted, the stream channel diversion shall be designed, constructed and removed in accordance with the following:

1. The longitudinal profile of the stream, the channel and the floodplain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or to runoff outside the permit area. These contributions shall not be in excess of requirements of state or federal law. Erosion control structures such as channel lining structures shall be used in diversions only when approved in the permit and plan as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance;

2. The combination of channel, bank and floodplain configurations shall be adequate to safely pass the peak runoff of a ten (10)-year, twenty-four (24)-hour precipitation event for temporary diversions, a one hundred (100)-year, twenty-four (24)-hour precipitation event for permanent diversions or larger events required in the permit and plan. However, the capacity of the channel itself should be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream of the diversion; and

3. The design and construction of all stream channel diversions of perennial and intermittent streams shall be certified by a

qualified registered professional engineer as meeting the performance standards of this rule **and any design criteria set by the director**.

(6) *[Sedimentation Ponds]* **Siltation Structures**.

(A) General Requirements. *[Sedimentation ponds]* **Siltation structures** shall be used individually or in series and shall—

1. Be constructed before any disturbance of the undisturbed area to be drained into the pond;

2. Be located as near as possible to the disturbed area and out of perennial streams, unless approved in the permit and plan; and

3. Meet all the criteria of this section.

(B) Sediment Storage Volume. *[Sedimentation ponds]* **Siltation structures** shall provide adequate sediment storage volume.

(C) Detention Time. *[Sedimentation ponds]* **Siltation structures** shall provide the required theoretical detention time for the water inflow or runoff entering the pond from a ten (10)-year, twenty-four (24)-hour precipitation event (design event).

(E) Each person who conducts surface mining activities shall design, construct and maintain *[sedimentation ponds]* **siltation structures** to prevent short-circuiting to the extent possible.

(F) The design, construction and maintenance of a *[sedimentation pond]* **siltation structure** or other sediment control measures in accordance with this section shall not relieve the person from compliance with applicable effluent limitations as contained in section (2) of this rule.

(G) There shall be no outflow through the emergency spillway during the passage of the runoff resulting from the ten (10)-year, twenty-four (24)-hour precipitation event or lesser events through the *[sedimentation pond]* **siltation structure**.

(H) *[Sediment ponds]* **Siltation structures** shall be designed, constructed and maintained, to provide periodic sediment removal sufficient to maintain adequate volume for the design event.

(Q) If a *[sedimentation pond]* **siltation structure** has an embankment that is more than twenty feet (20') in height, as measured from the upstream toe of the embankment to the crest of the open channel emergency spillway, unless the emergency spillway is a pipe, where it is measured to the lowest point in the toe of the embankment, or has both an embankment that is five feet (5') or more in height, as measured from the upstream toe of the embankment to the crest of the open channel emergency spillway and a storage volume of twenty (20) acre-feet or more above the upstream toe of the embankment, the following additional requirements shall be met:

1. An appropriate combination of principal and emergency spillways shall be provided to discharge safely the runoff resulting from a one hundred (100)-year, twenty-four (24)-hour precipitation event or a larger event required in the permit and plan;

2. The embankment shall be designed and constructed with a static safety factor of at least one and five-tenths (1.5) or a higher safety factor as required in the permit and plan to ensure stability;

3. Appropriate barriers shall be provided to control seepage along conduits that extend through the embankment; and

4. The criteria of the Mine Safety and Health Administration (MSHA) as published in 30 CFR 77.216 shall be met.

(T) **Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service (now renamed as the Natural Resources Conservation Service) Technical Release No. 60 (210-VI, TR-60, Revised Oct. 1985), entitled "Earth Dams and Reservoirs," hereafter in these rules referred to as TR-60, or the size or other criteria of 30 CFR 77.216 must be examined in accordance with 30 CFR 77.216-3.** Impoundments which do not meet the **above** criteria *[of 30 CFR 77.216(a)]* shall be examined at least quarterly by a qualified person designated by the operator for **the** appearance of structural weakness and other hazardous conditions.

(U) *[Sedimentation ponds]* **Siltation structures** shall not be removed until removal is authorized and until the disturbed area has been restored and the vegetation requirements of 10 CSR 40-3.120 are met and the drainage entering the pond has met the applicable state and federal water quality requirements for the receiving stream. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding. When the *[sedimentation pond]* **siltation structure** is removed, the affected land shall be regraded and revegetated in accordance with 10 CSR 40-3.110 and 10 CSR 40-3.120, unless the pond has been approved in the permit and plan for retention as being compatible with the approved postmining land use under 10 CSR 40-3.130. If approved in the permit and plan, the *[sedimentation pond]* **siltation structure** shall meet all the requirements for permanent impoundments of sections (10) and (17).

(8) Discharge Structures. Discharge from *[sedimentation ponds]* **siltation structures**, permanent and temporary impoundments, coal processing waste dams and embankments and diversions shall be controlled by energy dissipators, riprap channels and other devices, where necessary, to reduce erosion, to prevent deepening or enlargement of stream channels and to minimize disturbance of the hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

(10) Permanent and Temporary Impoundment.

(A) Impoundments meeting the criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 **and this section**. The plan required to be submitted to the district manager of the MSHA under 30 CFR 77.216 shall also be submitted to the director as part of the permit application. **Furthermore, impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 and the requirements of this section.**

(B) Permanent impoundments are prohibited unless authorized in the permit and plan upon the basis of the following demonstration:

1. The quality of the impounded water shall be suitable on a permanent basis for its intended use and discharge of water from the impoundment shall not degrade the quality of receiving waters to less than the water quality standards established pursuant to applicable state and federal laws;

2. The level of water shall be sufficiently stable to support the intended use;

3. Adequate safety and access to the impounded water shall be provided for proposed water users;

4. Water impoundments shall not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses;

5. The design, construction and maintenance of structures shall achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act, P. L. 83-566 (U.S.C. 1006). Requirements for impoundments that meet the size or other criteria of the MSHA, 30 CFR 77.216(a) are contained in United States Soil Conservation Service Technical Release No. 60, *Earth Dams and Reservoirs*, June 1976. Requirements for impoundments that do not meet the size or other criteria contained in 30 CFR 77.216(a) are contained in United States *[Soil Conservation Service Practice Standards 378, Ponds, January 1991]* **Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998**. The technical release and practice standard are incorporated by reference as they exist on the date of adoption of this chapter;

6. The size of the impoundment is adequate for its intended purposes; and

7. The impoundment will be suitable for the approved postmining land use.

(L) Stability.

1. An impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2.

2. Impoundments not included in paragraph 40-3.040(10)(L)1. of this section, except for a coal mine waste impounding structure, shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions or meet the requirements of Natural Resources Conservation Service, Conservation Practice Standard, POND No. CODE 378, December, 1998, and be less that twenty feet (20') feet in height.

(M) Freeboard. Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

(N) Foundation.

1. Foundations and abutments for an impounding structure shall be stable during all phases of construction and operation and shall be designed based on adequate and accurate information on the foundation conditions. For an impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.

2. All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.

(O) Spillways. An impoundment shall have either a combination of principal and emergency spillways, a single spillway configured as specified in 10 CSR 40-3.040(10)(O)1. of this section, or no spillways as specified in 10 CSR 40-3.040(10)(O)3. of this section. The impoundment shall be designed and constructed to safely pass or contain the applicable design precipitation event specified in 10 CSR 40-3.040(10)(O)2. or 3. of this section.

1. A single open-channel spillway can be utilized if it is:

A. Of nonerodible construction and designed to carry sustained flows; or

B. Earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected.

2. Except as specified in 10 CSR 40-3.040(10)(O)3. of this section, the required design precipitation event for an impoundment meeting the spillway requirements of 10 CSR 40-3.040(10)(O) of this section is:

A. For an impoundment meeting the Class B or C criteria for dams in TR-60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60;

B. For an impoundment meeting or exceeding the size or other criteria of 30 CFR 77.216(a), a one hundred (100)-year twenty-four (24)-hour event or greater as specified by the director or commission; or

C. For an impoundment not included in 10 CSR 40-3.040(10)(O)2. A. and B. of this section, as specified in Table 3 of the Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998.

3. A temporary impoundment that relies solely on storage capacity to control the runoff from the design precipitation event may be utilized with no spillway when it is demonstrated by the operator and certified by a qualified registered professional engineer that the impoundment will safely contain the design precipitation event, and that the stored water will be safely removed in accordance with current, prudent, engineering practices. Such an impoundment must be located where failure would not be expected to cause loss of life or serious property damage.

A. Impoundments meeting the Natural Resources Conservation Service Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall be designed to safely contain the runoff of the probable maximum precipitation (PMP) of a six (6)-hour event.

B. Impoundments not included in subparagraph 10 CSR 40-3.040(10)(O)3.A. of this section shall be designed to control the precipitation of the one hundred (100)-year twenty-four (24)-hour event.

C. For an impoundment not included in 10 CSR 40-3.040(10)(O)2.A. and B. of this section, as specified in Table 3 of the Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998.

(13) Surface Water and Groundwater Monitoring.

(A) Groundwater.

1. Groundwater levels, infiltration rates, subsurface flow and storage characteristics and the quality of groundwater shall be monitored in a manner approved in the permit and plan, to determine the effects of surface mining activities on the recharge capacity of reclaimed lands and on the quantity and quality of water in groundwater systems in the mine plan and adjacent areas.

A. Groundwater monitoring data shall be submitted every three (3) months to the director or more frequently as prescribed by the director. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any groundwater sample indicates noncompliance with the permit conditions, the operator shall promptly notify the director and take remedial measures provided for in 10 CSR 40-6.050(9)*[,]* **and** 10 CSR 40-6.070*[(13)]*(**14**) *[and 10 CSR 40-6.120(5)]*.

B. Groundwater monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 10 CSR 40-6.090, the director may modify the monitoring requirements, including the parameters covered and the sampling frequency, if the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(I) The operation has minimized disturbance to the prevailing hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses and the water rights of other users have been protected or replaced; or

(II) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 10 CSR 40-6.050(9)(C).

2. When surface mining activities may affect the groundwater systems serving as aquifers which significantly ensure the hydrologic balance of water use on or off the mine plan area, groundwater levels and groundwater quality shall be periodically monitored. Monitoring shall include measurements from a sufficient number of wells and mineralogical and chemical analyses of aquifer, overburden and spoil that are adequate to reflect changes in groundwater quantity and quality resulting from those activities. Monitoring shall be adequate to plan for modification of surface mining activities, if necessary, to minimize disturbance of the prevailing hydrologic balance.

3. As specified and approved in the permit and plan, the person who conducts surface mining activities shall conduct additional hydrologic tests, including drilling, infiltration tests and aquifer

tests and shall submit the results to the director, to demonstrate compliance with sections (11)–(13) of this rule.

(B) Surface Water.

1. Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 10 CSR 40-6.050(9)*[(B)]***(C)**4. and approved in the permit and plan. The permit and plan shall set forth the nature of data, frequency of collection and reporting requirements. Monitoring shall—

A. Be adequate to accurately measure and record water quantity and quality of the discharges from the permit area;

B. Be reported when analytical results of the sample collections indicate noncompliance with a permit condition or applicable standard; the person who conducts the surface mining activities shall notify the director within five (5) days. Where a National Pollutant Discharge Elimination System (NPDES) permit effluent limitation noncompliance has occurred, the person who conducts surface mining activities shall forward the analytic results concurrently with the written notice of noncompliance; and

C. Result in quarterly reports to the director, to include analytical results from each sample taken during the quarter. Any sample results which indicate a permit violation will be immediately reported to the director as provided for in 10 CSR 40-6.050(9) and 10 CSR 40-6.120(5). In those cases where the discharge for which water monitoring reports are required is also subject to regulation by an NPDES permit issued under the Clean Water Act of 1977 (30 U.S.C. Sections 1251–1378) and where the permit includes provisions for equivalent reporting requirements and requires filing of water monitoring reports within ninety (90) days or less of sample collection, the following alternative procedure shall be used. The person who conducts the surface mining activities shall submit to the director on the same time schedule as required by the NPDES permit or within ninety (90) days following sample collection, whichever is earlier, either:

(I) A copy of the completed reporting form filed to meet NPDES permit requirements; or

(II) A letter identifying the state or federal government official with whom the reporting form was filed to meet NPDES permit requirements and the date of filing.

2. After disturbed areas have been regraded and stabilized according to this chapter, the person who conducts surface mining activities shall monitor surface water flow and quality. Data from this monitoring may be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirements of this chapter to minimize disturbance to the prevailing hydrologic balance and to attain the approved postmining land use. These data may also provide a basis for approval by the commission or director for removal of water quality or flow control systems.

3. Equipment, structures and other devices necessary to accurately measure and sample the quality and quantity of surface water discharges from the disturbed area shall be properly installed, maintained and operated and shall be removed when no longer required.

(14) Transfer of Wells.

(B) Upon an approved transfer of a well, the transferee shall—

1. Assume primary liability for damages to persons or property from the well;

2. Plug the well when necessary, but in no case later than abandonment of the well; and

3. Assume primary responsibility for compliance with 10 CSR 40-3.020 **and those of the Wellhead Protection Section, Division of Geology and Land Survey, at 10 CSR 23 Chapter 3** with respect to the well.

(17) Postmining Rehabilitation of *[Sedimentation Ponds]* **Siltation Structures**, Diversions, Impoundments and Treatment Facilities. Before abandoning the permit area, the person who conducts the surface mining activities shall renovate all permanent *[sedimentation ponds]* **siltation structures**, diversions, impoundments and treatment facilities to meet criteria specified in the detailed design plan for the permanent structures and impoundments.

*AUTHORITY: sections 444.530 and 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Feb. 9, 1981, effective July 11, 1981. Amended: Filed April 2, 1986, effective July 26, 1986. Amended: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.050 Requirements for the Use of Explosives. The commission is amending the Purpose, and sections (1)–(3).

PURPOSE: The purpose for this amendment is to make minor clarifications.

*PURPOSE: This rule [brings the Land Reclamation Program into line with the Office of Surface Mining Reclamation and Enforcement rule changes on the same subject] **sets forth the requirements for the use of explosives pursuant to 444.855, RSMo**.*

(1) General Requirements.

(D) Blast Design.

1. An anticipated blast design shall be submitted if blasting operations will be conducted within—

A. One thousand feet (1**,**000') of any building used as a dwelling, public building, school, church, community**,** *[or]* institutional building **or dam** outside the permit area including those listed in paragraph (5)(D)1.; or

B. Five hundred feet (500') of an active or abandoned underground mine.

2. The blast design may be presented either as part of a permit application or thirty (30) days before the initiation of blasting approved by the director or commission.

3. The blast design shall contain sketches of the drill patterns, delay periods and decking, and shall indicate the type and amount of explosives to be used, critical dimensions and the location and general description of structures to be protected, as well as a discussion of design factors to be used, which protect the public and meet the applicable airblast, flyrock and ground vibration standards in section (5) of this rule.

4. The blast design shall be prepared and signed by a certified blaster.

5. The director or commission may require changes to the design submitted.

(2) Use of Explosives: Preblasting Survey.

(A) At least forty (40) days before initiation of blasting, the operator shall ensure that all residents or owners of public buildings, schools, churches, community or institutional buildings, dwellings**, dams** or other structures, including those listed in paragraph (5)(D)1., located within one-half (1/2) mile of the permit area are notified by certified letter how to request a preblast survey.

(3) Use of Explosives: Blasting Schedule.

(C) Blasting Schedule Contents. The blasting schedule, at a minimum shall contain—

1. Name, address and telephone number of*[, at a minimum, shall contain]* operator;

2. Identification of the specific areas in which blasting will take place;

3. Dates and time periods when explosives are to be detonated;

4. Methods to be used to control access to the blasting area; and

5. Type and patterns of audible warning and all clear signals to be used before and after blasting.

*AUTHORITY: sections 444.530 and 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed July 15, 1980, effective Nov. 13, 1980. Amended: Filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Rescinded and readopted: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed July 1, 1987, effective Sept. 25, 1987. Amended: Filed June 2, 1988, effective Aug. 25, 1988. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.080 Requirements for the Disposal of Coal Processing Waste. The commission is amending sections (1), (3) and (8).

PURPOSE: The purpose for this amendment is to correct a rule reference and make minor clarifications.

(1) General Requirements.

(A) All coal processing waste **disposed of in an area other than the mine workings or excavations** shall be hauled or conveyed and placed **for final placement** in new *[and]* **or** existing disposal areas approved in the permit and plan for this purpose. These areas shall be within a permit area. The disposal area shall be designed, constructed and maintained—

1. In accordance with 10 CSR 40-3.060(1) and (2) and sections (1)–(7) of this rule; and

2. To prevent combustion.

(3) Water Control Measures.

(D) All water discharged from a coal processing waste bank shall comply with 10 CSR 40-3.040(1), (2), (5), (6)*[, (12)]* and *[(15)]***(16)**.

(8) Disposal of Noncoal Wastes.

(A) Noncoal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustibles generated during surface mining activities shall be placed and stored in a controlled manner in a *[designed]* **designated** portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

*AUTHORITY: sections 444.530 and 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program,

Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.090 Requirements for the Protection of Air Resources. The commission is amending provisions of the rule.

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes.

The surface coal mining and reclamation operations shall comply with all applicable state and federal air pollution control laws. **All exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion according to 10 CSR 40-3.040(5)(A).**

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.110 Backfilling and Grading Requirements. The commission is amending sections (4), (5) and (6).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(4) Thin Overburden.

(A) The provisions of this section apply only *[where the final thickness is less than 0.8 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each mine plan area.]* **where there is insufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour. Insufficient spoil and other waste materials occur where the overburden thickness times the swell factor, plus the thickness of other available waste materials, is less than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not:**

1. Closely resemble the surface configuration of the land prior to mining; or

2. Blend into and complement the drainage pattern of the surrounding terrain. The provisions of this section apply only when surface mining activities cannot be carried out to comply with section (1) of this rule to achieve the approximate original contour.

(5) Thick Overburden.

(A) The provisions of this section apply only where *[the final thickness is greater than one and two-tenths (1.2) of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each mine plan area.]* **there is more than sufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour. More than sufficient spoil and other waste materials occur where the overburden thickness times the swell factor exceeds the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not:**

1. Closely resemble the surface configuration of the land prior to mining; or

2. Blend into and complement the drainage pattern of the surrounding terrain. The provisions of this section apply only when surface mining activities cannot be carried out to comply with section (1) of this rule to achieve the approximate original contour.

(6) Regrading or Stabilizing Rills and Gullies.

(B) On areas that have been previously mined *[where topsoil or a topsoil substitute is not available]*, the requirements for regrading or stabilizing rills and gullies pursuant to subsection (6)(A) apply after final grading*[.]* **and placement of topsoil or the best available topsoil substitute.**

*AUTHORITY: sections 444.530 and 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost

state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.120 Revegetation Requirements. The commission is amending sections (5) and (8).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and state law.

(5) Grazing. When the approved postmining land use is *[range or]* pasture *[land]*, the reclaimed land may be used for livestock grazing at a grazing capacity approved in the permit and plan approximately equal to that for similar nonmined lands, for at least the last two (2) full years of liability required under subsection (6)(B) of this rule or may be used in another manner, as approved, which will determine the productive capacity approved in the permit and plan approximately equal to that for similar nonmined lands.

(8) Reclamation Schedule.

(A) In addition to the temporal and spatial requirements for completion of grading specified in 10 CSR 40-3.110(1)(A), other aspects of reclamation shall be completed in a timely manner as follows:

1. Replacement of topsoil shall be completed within two hundred seventy (270) days of the completion of backfilling and rough grading or as contemporaneously as possible as defined in the approved permit;

2. A permanent cover sufficient to control erosion, or an equivalent erosion control practice, as approved by the director, shall be in place within two (2) years of the completion of initial seeding;

3. Within four (4) years of the completion of initial seeding—

A. Reclaimed land shall qualify for a Phase II liability release; and

B. The permittee shall submit a request for release of Phase II liability;

4. *[Sediment ponds]* **Siltation structures** and diversions that are no longer needed for control of sediment shall be graded, topsoiled and seeded within eighteen (18) months after approval of a Phase II liability release of all disturbed areas within the watershed they serve. These *[sediment ponds]* **Siltation structures** and diversions shall be clearly indicated by the director in the Phase II liability release inspection report;

5. Revegetation success on industrial/commercial areas, public service areas, recreation areas and residential areas shall be demonstrated in the last year of the five (5)-year responsibility period;

6. Revegetation success on woodland areas and wildlife areas shall be demonstrated in the last year of the five (5)-year responsibility period;

7. Revegetation success on cropland and pasture shall be demonstrated in any two (2) years of the last four (4) years of the five (5)-year responsibility period;

8. Revegetation success on prime farmland shall be demonstrated in any three (3) years of the last four (4) years of the five (5)-year responsibility period;

9. Measurements of ground cover, productivity and tree and shrub density shall be submitted to the commission within thirty (30) days of data collection for the years the permittee uses to prove revegetation success. If a permittee is unable to demonstrate revegetation success at the end of the five (5)-year responsibility period, the responsibility period and the requirement to measure productivity shall be extended year-by-year until the revegetation success standards are met; and

10. Within six (6) months after revegetation success is demonstrated for a given area—

A. All requirements of 10 CSR 40-7.021(2)(D) shall be met; and

B. The permittee shall submit a request for release of Phase III liability to the commission.

(B) The requirements of subsection (8)(A) shall not apply to areas that are used and needed specifically for the support of ongoing reclamation or mining activities and on which grading, topsoiling, or both cannot be completed until the areas are no longer needed for the support of ongoing reclamation or mining activities. The areas shall include, but shall not be limited to, haul roads, *[sediment ponds]* **siltation structures**, diversions and stockpiles. The requirements of subsection (8)(A) shall apply to these areas when they are no longer needed for support activities.

(D) The permittee shall report to the director the status of reclamation on all of his/her operations as of January 1 of each year. The report shall contain a narrative and map outlining the following as a minimum:

1. Total acres disturbed by mining (that is, spoil banks, open pit, bench);

2. Total acres disturbed to assist mining (that is, *[sediment ponds]* **siltation structures**, diversions, haul roads, topsoil stockpiles);

3. Acres finished graded (that is, all grading complete);

4. Acres not yet finished graded (that is, pit, bench, adjacent four (4) or fewer spoils);

5. Acres finished topsoiled (that is, topsoil completed and most likely seeded);

6. Acres not yet topsoiled;

7. Acres seeded (that is, permanent seeding of grass-legume and cover crop) and a description of the species planted and the methods used;

8. Acres permanent impoundments (that is, *[sediment ponds]* **siltation structures** and final pits);

9. Acres permanent roads;

10. Acres fully reclaimed (that is, reclamation completed; however, future touchup and overseeding may be necessary to ensure bond release status); and

11. Additional acres disturbed to support mining (that is, preparation plants, office and shop areas, slurry ponds, coal storage piles).

AUTHORITY: sections 444.530 and 444.810, RSMo [1994] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.140 Road and Other Transportation Requirements. The commission is amending section (1).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(1) Roads—Class I—General.

(A) Each person who conducts surface mining activities shall locate, design, construct or reconstruct, utilize and maintain Class I roads and reclaim the area to meet the requirements of sections (2)–(7) of this rule and to control or prevent erosion; siltation; the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed *[road]* surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices; and water pollution and damage to public or private property.

AUTHORITY: sections 444.530 ***and 444.810****, RSMo [1994]* ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.200 Requirements for Protection of the Hydrologic Balance for Underground Operations. The commission is amending sections (2), (4), (6), (8), (10), (12), (13) and (16).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(2) Water Quality Standards and Effluent Limitations.

(A) General Limitations.

1. All surface drainage from the disturbed area, including disturbed areas that have been graded, seeded or planted, shall be passed through a *[sedimentation pond]* **siltation structures**, a series of *[sedimentation ponds]* **siltation structures** or a treatment facility before leaving the permit area. Any discharge of water from underground workings to surface waters which does not meet the effluent limitations of this section shall also be passed through a *[sedimentation pond]* **siltation structures**, a series of *[sedimentation ponds]* **siltation structures** or a treatment facility before leaving the permit area.

2. *[Sedimentation ponds]* **siltation structures** and treatment facilities for surface drainage from the disturbed area shall be maintained until the disturbed area has been restored and the vegetation requirements of 10 CSR 40-3.270 are met and the quality of the untreated drainage from the disturbed area meets the applicable state and federal water quality standards requirements for the receiving stream. *[Sedimentation ponds]* **siltation structures** and treatment facilities for discharges from underground workings shall be maintained until either the discharge continuously meets the effluent limitations of this section without treatment or until the discharge has permanently ceased.

3. Exemptions may be granted in the permit and plan from these requirements only when—

A. The person who conducts the underground mining activities demonstrates that *[sedimentation ponds]* **siltation structures** and treatment facilities are not necessary for the drainage to be exempted to meet the effluent limitations of this section or the applicable state and federal water quality requirements for downstream receiving waters; and

B. The person who conducts the underground mining demonstrates that, for drainage from—

(I) Areas affected by surface operations and facilities, the disturbed surface drainage area within the total disturbed surface area is small and there is no mixture of surface drainage with a discharge from underground workings; or

(II) Underground mine workings, there is no mixture of that drainage with drainage from surface areas.

4. Disturbed area. For the purposes of this section only, disturbed area shall not include those areas affected by surface operations in which only diversion ditches, *[sedimentation ponds]* **siltation structures** or roads are installed in accordance with this

rule and the upstream area is not otherwise disturbed by the person who conducts the underground mining activities.

5. *[Sedimentation ponds]* **Siltation structures** required by this section shall be constructed in accordance with section (6) of this rule, in appropriate locations, before beginning any underground mining activities in the affected drainage area.

6. Where the *[sedimentation ponds]* **siltation structures** or series of *[sedimentation ponds]* **siltation structures** are used so as to result in the mixing of drainage from the disturbed areas with drainage from other areas not disturbed by current surface coal mining and reclamation operations, the permittee shall achieve the effluent limitations listed for all of the mixed drainage when it leaves the permit area.

(4) Stream Channel Diversions.

(B) When streamflow is allowed to be diverted, the stream channel diversion shall be designed, constructed and removed in accordance with the following:

1. The longitudinal profile of the stream, the channel and the floodplain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to stream flow or to runoff outside the permit area. These contributions shall not be in excess of requirements of state or federal law. Erosion control structures such as channel lining structures, retention basins and artificial channel roughness structures shall be used in diversions only when approved in the permit and plan as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance;

2. The combination of channel, bank and floodplain configurations shall be adequate to pass safely the peak runoff of a ten (10)-year, twenty-four (24)-hour precipitation event for temporary diversions, a one hundred (100)-year, twenty-four (24)-hour precipitation event for permanent diversions or larger events as specified in the permit and plan. However, the capacity of the channel itself should be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream of the diversion; and

3. The design and construction of all stream channel diversions of perennial and intermittent streams shall be certified by a qualified registered professional engineer as meeting the performance standards of this rule*[.]* **and any design criteria set by the director.**

(6) *[Sedimentation Ponds]* **Siltation Structures**.

(A) General Requirements. *[Sedimentation ponds]* **Siltation structures** shall be used individually or in series and shall—

1. Be constructed before any disturbance of the undisturbed area to be drained into the pond and prior to any discharge of water to surface waters from underground mine workings;

2. Be located as near as possible to the disturbed area and out of perennial streams, unless approved in the permit and plan; and

3. Meet all criteria of this section.

(B) Sediment Storage Volume. *[Sedimentation pond]* **Siltation structures** shall provide adequate sediment storage volume.

(C) Detention Time. *[Sedimentation pond]* **Siltation structures** shall provide the required theoretical detention time for the water inflow or runoff entering the pond from a ten (10)-year, twenty-four (24)-hour precipitation event (design event), plus the average inflow from the underground mine.

(E) Each person who conducts underground mining activities shall design, construct and maintain *[sedimentation ponds]* **siltation structures** to prevent short-circuiting to the extent possible.

(F) The design, construction and maintenance of a *[sedimentation pond]* **siltation structures** or other sediment control measures in accordance with this section shall not relieve the person from compliance with applicable effluent limitations as contained in 10 CSR 40-3.040(2).

(G) There shall be no outflow through the emergency spillway during the passage of the runoff resulting from the ten (10)-year, twenty-four (24)-hour precipitation events and lesser events through the *[sedimentation pond]* **siltation structures**, regardless of the volume of water and sediment present from the underground mine during the runoff.

(H) *[Sediment ponds]* **Siltation structures** shall be designed, constructed and maintained to provide periodic sediment removal sufficient to maintain adequate volume for the design event.

(Q) If a *[sedimentation pond]* **siltation structure** has an embankment that is more than twenty feet (20') in height, as measured from the upstream toe of the embankment to the crest of the open channel emergency spillway, unless the emergency spillway is a pipe, where it is measured to the lowest point in the top of the embankment or has both an embankment that is five feet (5') or more in height, as measured from the upstream toe of the embankment to the crest of the open channel emergency spillway and a storage volume of twenty (20) acre-feet or more above the upstream toe of the embankment, the following additional requirements shall be met:

1. An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff resulting from a one hundred (100)-year, twenty-four (24)-hour precipitation event or a larger event specified in the permit and plan, plus any inflow from the underground mine;

2. The embankment shall be designed and constructed with an acceptable static safety factor of at least one and five-tenths (1.5), or a higher safety factor as designated in the permit and plan to ensure stability;

3. Appropriate barriers shall be provided to control seepage along conduits that extend through the embankments; and

4. The criteria of the Mine Safety and Health Administration (MSHA) as published in 30 CFR 77.216 shall be met.

(T) **Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service (now renamed as the Natural Resources Conservation Service) Technical Release No. 60 (210-VI, TR-60, Revised Oct. 1985), entitled "Earth Dams and Reservoirs," hereafter in these rules referred to as TR-60, or the size or other criteria of 30 CFR 77.216 must be examined in accordance with 30 CFR 77.216-3.** Impoundments which do not meet the **above** criteria *[of 30 CFR 77.216(a)]* shall be examined at least quarterly by a qualified person designated by the operator for **the** appearance of structural weakness and other hazardous conditions.

(U) *[Sedimentation ponds]* **Siltation structure** shall not be removed until removal is authorized and until the disturbed area has been restored and the vegetation requirements of 10 CSR 40-3.270 are met and the drainage entering the pond has met the applicable state and federal water quality requirements for the receiving stream. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding. When the *[sedimentation pond]* **siltation structures** is removed, the affected land shall be regraded and revegetated in accordance with 10 CSR 40-3.260 and 10 CSR 40-3.270, unless the pond has been approved in the permit and plan for retention as being compatible with the approved postmining land use under 10 CSR 40-3.300. If retention is approved in the permit and plan, the *[sedimentation pond]* **siltation structures** shall meet all the requirements for permanent impoundments of sections (10) and (16) of this rule.

(8) Discharge Structures. Discharge from *[sedimentation ponds]* **siltation structures**, permanent impoundments, coal processing waste dams and embankments and diversions shall be controlled by energy dissipators, riprap channels and other devices, where necessary, to reduce erosion, to prevent deepening or enlargement of stream channels and to minimize disturbance of the

hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

(10) Permanent and Temporary Impoundments.

(A) Impoundments meeting the criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 **and this section**. The plan required to be submitted to the district manager of the MSHA under 30 CFR 77.216 shall also be submitted to the regulatory authority as part of the permit application. **Furthermore, impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 and the requirements of this section.**

(B) Permanent impoundments are prohibited, unless authorized in the permit and plan, upon the basis of the following demonstration:

1. The quality of the impounded water shall be suitable, on a permanent basis, for its intended use and discharge of water from the impoundment shall not degrade the quality of receiving waters to less than the water quality standards established pursuant to applicable state and federal laws;

2. The level of water shall be sufficiently stable to support the intended use;

3. Adequate safety and access to the impounded water shall be provided for proposed water users;

4. Water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses;

5. The design, construction and maintenance of structures shall achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act, P. L. 83-566 (16 U.S.C. 1006). Requirements for impoundments that meet the size or other criteria of the MSHA, 30 CFR 77.216(a) are contained in United States Soil Conservation Service Technical Release No. 60, *Earth Dams and Reservoirs*, June 1976. Requirements for impoundments that do not meet the size or other criteria contained in 30 CFR 77.216(a) are contained in *[United States Soil Conservation Service Practice Standard 378, Ponds, October 1978]* **United States Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998**. The technical release and practice standards are incorporated by reference as they exist on the date of adoption of this chapter;

6. The size of the impoundment is adequate for its intended purposes; and

7. The impoundment will be suitable for the approved postmining land use.

(J) Plans for any enlargement, reduction in size, reconstruction or other modification of dams or impoundments shall be submitted to the director and shall comply with the requirements of this section. Except where a modification is required to eliminate an emergency condition constituting a hazard to public health, safety or the environment, the plans will be approved before modification begins.

[1.] **(K)** If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the director of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the director shall be notified immediately. The director shall then notify the appropriate agencies that other emergency procedures are required to protect the public.

(L) Stability.

1. An impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2.

2. Impoundments not included in paragraph 10 CSR 40-3.200(10)(L)1. of this section, except for a coal mine waste impounding structure, shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions or meet the requirements of United States Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998, and be less than twenty feet (20') in height.

(M) Freeboard. Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

(N) Foundation.

1. Foundations and abutments for an impounding structure shall be stable during all phases of construction and operation and shall be designed based on adequate and accurate information on the foundation conditions. For an impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.

2. All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.

(O) Spillways. An impoundment shall have either a combination of principal and emergency spillways, a single spillway configured as specified in 10 CSR 40-3.200(10)(O)1. of this section, or no spillways as specified in 10 CSR 40-3.200(10)(O)3. of this section. The impoundment shall be designed and constructed to safely pass or contain the applicable design precipitation event specified in 10 CSR 40-3.200(10)(O)2. or 3. of this section.

1. A single open-channel spillway can be utilized if it is:

A. Of nonerodible construction and designed to carry sustained flows; or

B. Earth- or grass-lined and designed to carry short-term, infrequent flows at nonerosive velocities where sustained flows are not expected.

2. Except as specified in 10 CSR 40-3.200(10)(O)3. of this section, the required design precipitation event for an impoundment meeting the spillway requirements of 10 CSR 40-3.200(10)(O) of this section is:

A. For an impoundment meeting the Class B or C criteria for dams in TR-60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

B. For an impoundment meeting or exceeding the size or other criteria of 30 CFR 77.216(a), a one hundred (100)-year twenty-four (24)-hour event.

C. For an impoundment not included in 10 CSR 40-3.200(10)(O)2. A. and B. of this section, as specified in Table 3 of the United States Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998.

3. A temporary impoundment that relies solely on storage capacity to control the runoff from the design precipitation event may be utilized with no spillway when it is demonstrated by the operator and certified by a qualified registered professional engineer that the impoundment will safely contain the design precipitation event, and that the stored water will be safely removed in accordance with current, prudent, engineering practices. Such an impoundment must be located where

failure would not be expected to cause loss of life or serious property damage.

A. Impoundments meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall be designed to safely contain the runoff of the probable maximum precipitation (PMP) of a six (6)-hour event.

B. Impoundments not included in subparagraph 10 CSR 40-3.200(10)(O)3.A. of this section shall be designed to control the precipitation of the one hundred (100)-year twenty-four (24)-hour event.

C. For an impoundment not included in 10 CSR 40-3.200(10)(O)2. A. and B. of this section, as specified in Table 3 of the United States Natural Resources Conservation Service, Conservation Practice Standard, POND, No. CODE 378, December, 1998.

(12) Surface Water and Groundwater Monitoring.

(A) Groundwater.

1. Groundwater levels, infiltration rates, subsurface flow and storage characteristics and the quality of groundwater shall be monitored in a manner approved in the permit and plan to determine the effects of underground mining activities on the recharge capacity of reclaimed lands and on the quantity and quality of water in groundwater systems in the mine plan and adjacent areas.

A. Groundwater monitoring data shall be submitted every three (3) months to the director or more frequently as prescribed by the director. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any groundwater sample indicates noncompliance with the permit conditions, the operator shall promptly notify the director and take remedial measures provided for in 10 CSR 40-6.050(9)*[,]* **and** 10 CSR 40-6.070*[(13)]***(14)** *[and 10 CSR 40-6.120(5)].*

B. Groundwater monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 10 CSR 40-6.090, the director may modify the monitoring requirements, including the parameters covered and the sampling frequency, if the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(I) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or

(II) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 10 CSR 40-6.120(5)(C).

2. When underground mining activities may affect groundwater systems which serve as aquifers which significantly ensure the hydrologic balance of water use either on or off the mine plan area, ground levels and groundwater quality shall be periodically monitored. Monitoring shall include measurements from a sufficient number of wells and mineralogical and chemical analyses of aquifer, overburden and spoil that are adequate to reflect changes in groundwater quantity and quality resulting from those activities. Monitoring shall be adequate to plan for modification of the underground mining activities if necessary to minimize disturbance of the prevailing hydrologic balance.

3. As specified in the permit and plan, the person who conducts the underground mining activities shall conduct additional hydrologic tests, including drilling, infiltration tests and aquifer tests and the results shall be submitted to the director to demonstrate compliance with sections (11) and (12) of this rule.

(B) Surface Water.

1. Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 10 CSR 40-6.120(5)*[(B)]***(C)**3. and approved in the permit and plan. The permit and plan shall set forth the nature of data, frequency of collection and reporting requirements.

A. Monitoring shall be adequate to measure accurately and record water quantity and quality of discharges from the permit area;

B. In all cases in which analytical results of the sample collections indicate noncompliance with a permit condition or applicable standard has occurred, result in the person who conducts underground mining activities notifying the director within five (5) days. Where a National Pollutant Discharge Elimination System (NPDES) permit effluent limitation noncompliance has occurred, the person who conducts the underground mining activities shall forward the analytic results concurrently with the written notice of noncompliance; and

C. Monitoring shall result in quarterly reports to the director to include analytical results from each sample taken during the quarter. Any sample results which indicate a permit violation will be reported immediately to the director provided for in 10 CSR 40-6.050(9) and 10 CSR 40-6.120(5). In those cases where the discharge for which water monitoring reports are required is also subject to regulation by an NPDES permit issued under the Clean Water Act of 1977 (30 U.S.C. *[S]*sections 1251–1378) and where the permit includes provisions for equivalent reporting requirements and requires filing of the water monitoring reports within ninety (90) days or less of sample collection, the following alternative procedure shall be used. The person who conducts the underground mining activities shall submit to the director on the same time schedule as required by the NPDES permit, or within ninety (90) days following sample collection, whichever is earlier, either—

(I) A copy of the completed reporting form filed to meet the NPDES permit requirement; or

(II) A letter identifying the state or federal government official with whom the reporting form was filed to meet the NPDES permit requirements and the date of filing.

2. Surface water flow and quality, including discharges to surface waters from the permit area and receiving waters shall continue to be monitored after both the cessation of use of underground mine workings and after surface disturbed areas have been regraded and stabilized according to this chapter. Data from this monitoring may be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirement of this chapter to minimize disturbance to the prevailing hydrologic balance and to attain the approved postmining land use. These data may also provide a basis for approval by the commission or director for removal of water quality or flow control systems.

3. Equipment, structures and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the surface disturbed area and from underground mine workings shall be properly installed, maintained and operated and shall be removed when no longer required.

(13) Transfer of Wells.

(B) Upon an approved transfer of a well, the transferee shall—

1. Assume primary liability for damages to persons or property from the well;

2. Plug the well when necessary, but in no case later than abandonment of the well; and

3. Assume primary responsibility for compliance with 10 CSR 40-3.180 **and those of the Wellhead Protection Section, Division of Geology and Land Survey, at 10 CSR 23, Chapter 3** with respect to the well.

(16) Postmining Rehabilitation of *[Sedimentation Ponds]* **Siltation Structures**, Diversions, Impoundments and Treatment Facilities. Before abandoning the permit area, the person who conducts the underground mining activities shall renovate all permanent *[sedimentation ponds]* **siltation structures**, diversions, impoundments and treatment facilities to meet criteria specified in

the detailed design plan for the permanent structures and impoundments.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.240 Air Resource Protection. The commission is amending section (1).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(1) *[The underground coal mining and reclamation operation shall comply with all applicable state and federal air pollution laws.]* **All exposed surface areas shall be protected attendant to erosion according to 10 CSR 40-3.200(5)(A).**

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. Amended: Filed Dec 10, 1980, effective April 11, 1981. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 3—Permanent Performance Requirements for Surface Coal Mining and Related Activities

PROPOSED AMENDMENT

10 CSR 40-3.270 Revegetation Requirements for Underground Operations. The commission is amending section (5) and subsections (8)(A) and (8)(B).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and state law.

(5) Grazing. When the approved postmining land use is *[range or]* pasture *[land]*, the reclaimed land may be used for livestock grazing at a grazing capacity approved in the permit and plan approximately equal to that for similar nonmined lands for at least the last two (2) full years of liability required under subsection (6)(B) of this rule or may be used in another manner, which will determine the productive capacity approved in the permit and plan approximately equal to that for similar nonmined lands.

(8) Reclamation Schedule.

(A) In addition to completion of backfilling and grading within the schedule established in accordance with 10 CSR 40-3.260(1)(A), other aspects of reclamation shall be completed in a timely manner as follows:

1. Replacement of topsoil shall be completed within two hundred seventy (270) days of the completion of backfilling and rough grading;

2. A permanent cover sufficient to control erosion or an equivalent erosion control practice, as approved by the director, shall be in place within two (2) years of the completion of backfilling and rough grading;

3. Within four (4) years of the completion of backfilling and rough grading—

A. Reclaimed land shall qualify for a Phase II liability release; and

B. The permittee shall submit a request for release of Phase II liability;

4. *[Sediment ponds]* **Siltation structures** and diversions that are no longer needed for control of sediment shall be graded, topsoiled and seeded within eighteen (18) months after approval of a Phase II liability release of all disturbed areas within the watershed they serve. These *[sediment ponds]* **siltation structures** and diversions shall be clearly indicated by the director in the Phase II liability release inspection report;

5. Revegetation success on woodland, wildlife habitat, industrial, commercial, residential and previously mined land shall be demonstrated in the last year of the five (5)-year responsibility period;

6. Revegetation success on woodland areas and wildlife areas shall be demonstrated in the last year of the five (5)-year responsibility period;

7. Revegetation success on cropland and pasture shall be demonstrated in any two (2) years of the last four (4) years of the five (5)-year responsibility period;

8. Revegetation success on prime farmland shall be demonstrated in any three (3) years of the last four (4) years of the five (5)-year responsibility period;

9. Measurements of ground cover, productivity and tree and shrub density shall be submitted to the commission within thirty (30) days of data collection for the years the permittee uses to prove revegetation success. If a permittee is unable to demonstrate revegetation success at the end of the five (5)-year responsibility period, the responsibility period and the requirement to measure productivity shall be extended year-by-year until the revegetation success standards are met; and

10. Within six (6) months after revegetation success is demonstrated for a given area—

A. All requirements of 10 CSR 40-7.021(2)(D) shall be met; and

B. The permittee shall submit a request for release of Phase III liability to the commission.

(B) The requirements of subsection (8)(A) shall not apply to areas that are used and needed specifically for the support of ongoing reclamation or mining activities and on which grading, topsoiling, or both, cannot be completed until the areas are no longer needed for the support of ongoing reclamation or mining activities. These areas shall include, but shall not be limited to, haul roads, *[sediment ponds]* **siltation structures**, diversions and stockpiles. The requirements of subsection (8)(A) shall apply to these areas when they are no longer needed for support activities.

*AUTHORITY: section 444.810, RSMo [Supp. 1995] **Supp. 1999**. Original rule filed Aug. 8, 1980, effective Dec. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMENDMENT

10 CSR 40-4.010 Coal Exploration Requirements. The commission is amending the Purpose and subsection (3)(J)

PURPOSE: The purpose for this amendment is to correct a rule reference and make a minor clarification.

*PURPOSE: This rule [brings Missouri's regulations into line with the federal language] **sets forth the requirements for conducting coal exploration activities pursuant to 444.810 and 444.845, RSMo**.*

(3) Performance Standards for Coal Exploration.

(J) Acid- or toxic-forming materials shall be handled and disposed of in accordance with 10 CSR 40-3.040(1) and *[(8)]***(9)** and 10 CSR 40-3.080. The director or commission may specify additional measures which shall be adopted by the person engaged in coal exploration.

*AUTHORITY: section 444.530, RSMo [Supp. 1990] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Rescinded and readopted: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMENDMENT

10 CSR 40-4.020 Auger Mining Requirements. The commission is amending subsection (2)(B).

PURPOSE: The purpose for this amendment is to correct a rule reference.

(2) Undisturbed areas of coal shall be left in unmined sections which—

(B) Are no more than two thousand five hundred feet (2,500') apart, measured from the center of one section to the center of the next section, unless a greater distance is set forth in the permit application under 10 CSR 40-6.060*[(6)]***(5)** and approved in the permit and plan; and

*AUTHORITY: section 444.530, RSMo [1986] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state,

Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMENDMENT

10 CSR 40-4.030 Operations on Prime Farmland. The commission is amending the Purpose and sections (3), (4), (6) and (7).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

PURPOSE: This rule outlines the procedure for surface coal mining and reclamation on prime farmland [and reflects recent changes in federal rulemaking] ***pursuant to 444.810 and 444.855, RSMo****.*

(3) Responsibilities.

(A) The *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service** within each state is responsible for establishment of specifications for prime farmland soil removal, storage, replacement and reconstruction.

(4) Applicability. The requirements of this rule shall not apply to—

(A) *[Water bodies that have been approved by the Land Reclamation Commission as an alternative postmining land use in accordance with 10 CSR 40-3.130(1), 10 CSR 40-3.300(1), 10 CSR 40-6.040(6), 10 CSR 40-6.050(10), 10 CSR 40-6.110(6) and 10 CSR 40-6.120(6), as applicable, and where the Land Reclamation Commission has determined that the water bodies will not result in an aggregate loss of prime farmland acreage in the permit area. The creation of water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained. These water bodies shall meet the requirements of 10 CSR 40-3.040(9) and 10 CSR 40-3.200(9); or]* **Coal preparation plants, support facilities, and roads of underground mines that are actively used over extended periods of time and where such uses affect a minimal amount of land. Such uses shall meet the requirements of 10 CSR 40-3.**

(B) Disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland. The operator shall minimize the area of prime farmland used for such purposes.

[(B)] **(C)** Prime farmland that has been excluded in accordance with 10 CSR 40-6.060(4)(A).

(6) Soil Replacement.

(A) Soil reconstruction specifications established by the *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service** shall be based upon the standards of the National Cooperative Soil Survey and shall include, as a minimum, physical and chemical characteristics of reconstructed soils and soil descriptions containing soil horizon depths, soil densities, soil pH and other specifications so that reconstructed soils will have the capability of achieving levels of yield equal to, or higher than, those of nonmined prime farmland in the surrounding area.

(7) Revegetation and Restoration of Soil Productivity.

(B) Prime farmland soil productivity shall be restored in accordance with the following provisions:

1. Measurements of soil productivity shall be initiated in accordance with 10 CSR 40-3.120;

2. Soil productivity shall be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the crops determined under paragraph (7)(B)6. of this rule. A statistically valid sampling technique at a ninety percent (90%) or greater statistical confidence level shall be used as approved by the Land Reclamation Commission in consultation with the *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service**;

3. The measurement period for determining average annual crop production (yield) shall be a minimum of three (3)-crop years prior to release of the operator's *[p]***P**hase III liability. These three (3) years need not be consecutive but must be within the five (5)-year *[p]***P**hase III liability period;

4. The level of management applied during the measurement period shall be the same as the level of management used on nonmined prime farmland in the surrounding area;

5. Restoration of soil productivity shall be considered achieved when the average yield during the measurement period equals or exceeds the average yield of the crop established for the same period of nonmined soils of the same or similar texture or slope phase of the soil series in the reference area under equivalent management practices;

6. The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one (1) of the reference crops for one (1) of the three (3) years. If hay is the most commonly grown crop, then the second most commonly grown crop will be used. In the other two (2) years, other commonly grown crops on prime farmland within the county will be used;

7. Under the procedure in subsection (7)(B) of this rule, the crop yield may be adjusted, with the concurrence of the *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service** and approval of the director, for—

A. Disease, pest- and weather-induced seasonal variations; or

B. Difference in specific management practices where the overall management practices of the crops being compared are equivalent; and

8. Plans for proving *[p]***P**hase III bond release on prime farmlands, including crops to be grown and location of test plots, must be approved in advance by the director.

AUTHORITY: section 444.810, RSMo [1986] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980.*

Amended: Filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed Dec. 9, 1982, effective April 11, 1983. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed June 2, 1988, effective Aug. 25, 1988. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed March 21, 2000.

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 4—Permanent Performance Requirements for Special Mining Activities

PROPOSED AMENDMENT

10 CSR 40-4.050 Requirements for Coal Processing Plants and Support Facilities Not Located at or Near the Mine Site or Not Within the Permit Area for a Mine. The commission is amending sections (11) and (12).

PURPOSE: The purpose for this amendment is to correct rule references.

(11) Fish, wildlife and related environmental values shall be protected in accordance with10 CSR 40-3.100(1)–*[(4)]***(7)**.

(12) Slide areas and other surface areas shall comply with 10 CSR 40-3.100*[(5)]***(8)**.

AUTHORITY: section 444.530, RSMo [1986] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 5—Prohibitions and Limitations on Mining in Certain Areas and Areas Unsuitable for Mining

PROPOSED AMENDMENT

10 CSR 40-5.010 Prohibitions and Limitations on Mining in Certain Areas. The commission is amending subsections (1)(B) and (2)(E).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules; and to correct omissions, citations, misspellings and other referenced material that needs to be updated.

(1) Definitions. For the purposes of this chapter—

(B) *[No significant]* **Significant** recreational, timber, economic or other values incompatible with surface coal mining operations means those *[significant]* values which could be damaged by, and are not capable of existing together with, surface coal mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on *[off-site areas which could be affected by mining]* **other affected area**. Those values to be evaluated for their importance include:

1. Recreation, including hiking, boating, camping, skiing or other related outdoor activities;
2. Timber management and silviculture;
3. Agriculture, aquaculture or production of other natural, processed or manufactured products which enter commerce; and
4. Scenic, historic, archaeologic, esthetic, fish, wildlife, plants or cultural interests;

(2) Areas Where Mining is Prohibited or Limited. Subject to valid existing rights, no surface coal mining operations shall be conducted after September 28, 1979**,** unless those operations existed on that date—

(E) Within three hundred feet (300'), measured horizontally, from any occupied dwelling*[,]* **unless** the permit applicant *[shall submit]* **submits** with the application a written waiver from the owner of the dwelling, clarifying that the owner and signatory had the legal right to deny mining and knowingly waived that right. The waiver shall act as consent to surface coal mining operations within a closer distance of the dwelling as specified;

AUTHORITY: section 444.530, RSMo [Supp. 1998] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed Feb. 9, 1981, effective July 11, 1981. Amended: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed March 2, 1989, effective May 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.010 General Requirements for Permits, Permit Applications and Coal Exploration. The commission is amending subsections (4)(B) and (6)(A).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules; and to correct omissions, citations, misspellings and other referenced material that needs to be updated.

(4) Except as otherwise provided for in this rule, on and after eight (8) months from the date on which the state program is approved by the secretary pursuant to 30 U.S.C. 1253 and published in the *Federal Register*, no person shall engage in or carry out any surface coal mining and reclamation operations unless that person shall have first obtained a valid permit pursuant to this chapter.

(B) Filing Deadlines After Initial Implementation.

1. General. Each person who conducts or expects to conduct new surface coal mining and reclamation operations shall file a complete application for a permit for those operations allowing at a minimum of ninety (90) days for review of the application.

2. Renewal of valid permits. An application for renewal of a permit under 10 CSR *[40-6.080]* **40-6.090**(5) and (6) shall be filed at least one hundred twenty (120) days before the expiration of the permit involved. **A permittee need not renew the permit if no surface coal mining operations will be conducted under the permit and solely reclamation activities remain to be done. Obligations established under a permit continue until completion of surface coal mining and reclamation operations, regardless of whether the authorization to conduct surface coal mining operations has expired or has been terminated, revoked, or suspended.**

3. Revisions of permits. Any application for revision of a permit under 10 CSR 40-6.090(4) shall be filed within a time sufficient to allow for review of the application before the date on which the permittee expects to revise surface coal mining or reclamation operations.

4. Succession to rights granted under prior permits. Any application for a new permit required for a person succeeding by transfer, sale or assignment of rights granted under a permit shall be filed not later than thirty (30) days after that succession is approved by the commission.

(6) Permit Fees. Each application for a surface coal mining and reclamation permit pursuant to a regulatory program shall be accompanied by a fee.

(A) For new surface coal mining permits there shall be an initial fee of one hundred dollars ($100), plus an acreage fee of one hundred dollars ($100) for each acre or fraction of an acre of the permit area. For multiple year permits, the acreage fee shall be paid annually by dividing the total acres in the permit area by the number of years covered by the permit and multiplying that number by that year's acreage fee**,** and**,** after the first year, there shall be an annual fee of one hundred dollars ($100). *[All permits shall be on a yearly basis and shall require the entire initial fee and the acreage fee for that year.]* For the first year of any new permit, the first year's fees shall be paid with the permit application. *[After that through the term of]* **Afterwards and until the operator obtains the final liability release on all lands covered by** the permit, the annual fee and acreage fee shall be paid as a condition to and prior to operating for that permit year. The acreage fee shall be paid only once on any given area, except in the case of a revocation; an allowance shall be given for any acreage fee previously paid for a permit under sections 444.500–444.755, RSMo, when the land was not disturbed under the permit.

AUTHORITY: sections 444.530 and 444.810, RSMo [1994] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed May 12, 1980, effective Sept. 12, 1980. Amended: Filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed June 2, 1987, effective Aug. 27, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.020 General Requirements for Coal Exploration, Permits. The commission is amending the Purpose and sections (5) and (7).

PURPOSE: The purpose for this amendment is to correct omissions and rule references.

*PURPOSE: This rule [brings Missouri's regulations into line with the federal language] **sets forth the requirements for coal exploration permits pursuant to 444.810 and 444.845, RSMo**.*

(5) Requirements for Commercial **Use or** Sale. Except as provided in this section, any person who extracts coal for commercial **use or** sale during coal exploration operations shall obtain a surface coal mining and reclamation operations permit for those operations from the director under 10 CSR 40-6.010*[,]* **and** 10 CSR 40-6.030*[, 10 CSR 40-6.050]* through *[and including 10 CSR 40-6.090 and 10 CSR 40-6.110.]* **10 CSR 40-6.120.** No surface coal mining and reclamation operations permit is required if the director or commission makes a prior **written** determination that the commercial use or sale is to test for coal properties necessary for the development of surface coal mining and reclamation operations for which a permit application is to be submitted at a later time. **The person conducting the exploration shall file an application for such determination with the director or commission.** The application shall demonstrate that the coal testing is necessary for the development of a surface coal mining and reclamation operation for which a surface coal mining operations permit application is to be submitted in the near future and that the proposed commercial use or sale of coal extracted during exploration operations is solely for the purpose of testing the coal. The application shall contain the following:

(7) Bonding for Coal Exploration Permits.

(A) Permits for exploration where two hundred fifty (250) tons of coal or less will be removed shall be bonded at the rate of five thousand dollars ($5,000) per permit. Bonds shall be of the type allowed in 10 CSR 40-7.011*[(3)]***(6)**.

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Nov. 10, 1980, effective Feb. 11, 1981. Rescinded and readopted: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

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Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.030 Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related Information. The commission is amending sections (1) and (2).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and to correct rule references.

(1) Identification of Interests.

(C) For each person who owns or controls the applicant under the definition of owned or controlled and owns or controls in 10 CSR 40-6.010(2)(E), as applicable **each application shall contain**—

1. The person's name, address, Social Security number and employer identification number;

2. The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;

3. The title of the person's position, date position was assumed and, when submitted under 10 CSR 40-6.070(13)(E), date of departure from the position;

4. Each additional name and identifying number, including employer identification number, federal or state permit number and the Mine Safety and Health Administration (MSHA) number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five (5) years preceding the date of the application; and

5. The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.

(D) For any surface coal mining operation owned or controlled by *[either]* the applicant *[or by any person who owns or controls the applicant]* under the definition of owned or controlled and owns or controls in 10 CSR 40-6.010(2)(E), *[the operation's]* **each application shall contain**—

1. Name, address, identifying numbers, including employer identification number, federal or state permit number and the MSHA number, the date of issuance of the MSHA number and the regulatory authority; and

2. Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(I) The applicant shall submit this information required by sections (1) and (2) of this rule in any prescribed format that is issued by the *[director]* **Office of Surface Mining Reclamation and Enforcement (OSMRE)**.

(2) Compliance Information. Each application shall contain—

[(C) A listing of each violation notice received by the applicant or any subsidiary, affiliate or persons controlled by or under common control with the applicant in connection with any surface coal mining operation during the three (3)-year period before the application date, for violations of any law, rule of the United States or of any state law, rule enacted pursuant to federal law, rule or of any provision of the act pertaining to air or water environmental protection and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. The application shall also contain a statement regarding each violation notice or cessation order reported, including:

1. The date of issuance, the MSHA number and identity of the issuing regulatory authority, department or agency;

2. The name of the person to whom the violation notice was issued;

3. A brief description of the particular violation alleged in the notice;

4. The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including but not limited to, proceedings initiated by any person identified in subsection (2)(C) to obtain administration or judicial review of the violations;

5. The current status of the proceedings and of the violation notice;

6. The actions, if any, taken by the applicant to abate the violation; and

7. Any identifying numbers for the operation, including the federal or state permit number and the MSHA number; and]

(C) A list of all violation notices received by the applicant during the three (3)-year period preceding the application date, and a list of all unabated cessation orders and unabated violation notices received prior to the date of the application by any surface coal mining and reclamation operation that is deemed or presumed to be owned or controlled by the applicant under the definition of "owned or controlled" and "owns or controls" in 10 CSR 40-6.010(2)(E) of this chapter. For each notice of violation issued pursuant to 10 CSR 40-8.030(7) or under the federal or state program for which the abatement period has not expired, the applicant must certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

1. Any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department or agency;

2. Brief description of the violation alleged in the notice;

3. The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in subsection (C) of this section to obtain administrative or judicial review of the violation;

4. The current status of the proceedings and of the violation notice; and

5. The actions, if any, taken by any person identified in subsection (C) of this section to abate the violation.

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1994. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.040 Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources. The commission is amending sections (5) and (16).

PURPOSE: The purpose for this amendment is to make minor clarifications.

(5) Geology Description.

(B) Test Borings and Core Samples.

1. Test borings or core samples from the proposed permit area shall be collected and analyzed down to and including the stratum immediately below the lowest coal seam to be mined, or any aquifer below the lowest coal seam which may be adversely affected, to provide the following data in the description:

A. Location of subsurface water, if encountered;

B. Logs of drill holes showing the lithologic characteristics and thickness of each stratum and each coal seam;

C. Physical properties of each stratum within the overburden;

D. Chemical analysis of each stratum within the overburden and the stratum immediately below the lowest coal seam to be mined to identify, at a minimum, those horizons which contain potential acid-, toxic-forming or alkalinity-producing materials; and

E. Analyses of the coal seam **for acid- or toxic-forming materials**, including, but not limited to, an analysis of the **total** sulfur*[, pyrite and marcasite]* **and pyritic sulfur** content.

2. If required by the commission or director, test borings or core samplings shall be collected and analyzed to greater depths

within the proposed permit area, or for areas outside the proposed permit area to provide for evaluation of the impact of the proposed activities on the hydrologic balance.

3. An applicant may request that the requirement for a statement of the results of the test borings or core samplings be waived by the director. The waiver may be granted only if the director makes a written determination that the statement is unnecessary because other equivalent information is accessible to him/her in a satisfactory form.

(16) Prime Farmland Investigation.

(C) Application Contents—Reconnaissance Inspection.

1. All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The director or commission in consultation with the *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service** shall determine the nature and extent of the required reconnaissance inspection.

2. If the reconnaissance inspection establishes that prime farmland does exist within the proposed permit area, but that it has not been historically used as cropland, the applicant may submit a request for negative determination.

3. If the reconnaissance inspection indicates that land within the proposed permit area may be prime farmland historically used for croplands, the applicant shall determine if a soil survey exists for those lands and whether soil mapping units in the permit area have been designated as prime farmland. If no soil survey exists, the applicant shall have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. Soil surveys of the detail used by the *[United States Soil Conservation Service]* **United States Natural Resources Conservation Service** for operational conservation planning shall be used to identify and locate prime farmland soils. If the soil survey indicates that prime farmland soils are present within the proposed permit area, 10 CSR 40-6.060(4) shall apply.

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.050 Surface Mining Permit Application—Minimum Requirements for Reclamation and Operations Plan. The commission is amending sections (1), (5), (7), (9), (11) and (17).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and to make minor clarifications.

(1) Responsibilities. It is the responsibility **of**—

(5) Operations Plan—Maps and Plans. Each application shall contain maps and plans of the proposed mine plan and adjacent areas as follows:

(B) The following shall be shown for the proposed permit area unless specifically required for the mine plan area or adjacent area by the requirements of this section:

1. Buildings, utility corridors and facilities to be used;

2. The area of land to be affected within the proposed mine plan area according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond will be posted under 10 CSR 40-7;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal waste and noncoal waste storage area. Except for topsoil and spoil, the narrative should be in accordance with the appropriate section(s) of 10 CSR 40-3.080;

6. Each water diversion, collection, conveyance, treatment storage and discharge facility to be used;

7. Each air pollution collection and control facility;

8. Each source of waste and each waste disposal facility relating to coal processing or pollution control in accordance with 10 CSR 40-3.080(1)–(6);

9. Each facility to be used to protect and enhance fish and wildlife and related environmental values;

10. Each explosive storage and handling facility; and

11. Location of each *[sedimentation pond]* **siltation structure**, permanent water impoundment, coal processing waste bank and coal processing waste dam and embankment in accordance with section (11) and fill area for the disposal of excess spoil in accordance with section (16).

(C) Maps, plans and cross-sections required under paragraphs (5)(B)4., 5., 6., 10. and 11. of this rule shall be prepared by or under the direction of and certified by a qualified registered professional engineer *[or a professional geologist experienced in the design and construction of impoundments]*, with assistance from experts in related fields such as land surveying and landscape architecture except that—

1. Maps, plans and cross-sections for *[sedimentation ponds]* **siltation structures** may only be prepared by a qualified registered professional engineer; and

2. Spoil disposal facilities, maps, plans and cross-sections may only be prepared by a qualified registered engineer.

(7) Fish and Wildlife Plan.

(D) Each fish and wildlife plan shall include a description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations and how enhancement of

these resources will be achieved where practicable. This description shall—

1. Be consistent with the requirements of this section **and 10 CSR 40-3.100***[.]***;**

2. Apply, at a minimum, to species and habitats identified under subsection (7)(C); and

3. Include—

A. Protective measures that will be used during the active mining phase of operation. Such measures may include the establishment of buffer zones, the selective location and special design of haul roads and power lines, species and habitats and the monitoring of surface water quality and quantity; and

B. Enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. Where the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(9) Reclamation Plan—Protection of Hydrologic Balance.

(C) The description shall include:

1. A plan for the control, in accordance with 10 CSR 40-3 of surface and ground water drainage into, through and out of the proposed mine plan area; and

2. A plan for the treatment, where required under 10 CSR 40-3 and 10 CSR 40-4 and the regulatory program, of surface and ground water drainage from the area to be disturbed by the proposed activities and proposed quantitative limits on pollutants in discharges subject to 10 CSR 40-3.040(2), according to the more stringent of the following:

A. 10 CSR 40-3 and 10 CSR 40-4 and the regulatory program; or

B. Other applicable state and federal laws;

3. A plan for the restoration of the approximate recharge capacity of the mine plan area in accordance with 10 CSR 40-3.040*[(11)]***(12)**;

4. A plan for the collection, recording and reporting of ground and surface water quality and quantity data, according to 10 CSR 40-3.040*[(12)]***(13)**; and

5. If the determination of the probable hydrologic consequences (PHC) required by subsection (9)(D) of this rule indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid- or toxic-forming material is present that may result in the contamination of ground or surface water supplies, then information supplemental to that required under 10 CSR 40-6.040(6) and (7), shall be provided to evaluate this PHC and to plan remedial and reclamation activities. This supplemental information may be based upon drilling, aquifer tests, hydrogeologic analysis of the water-bearing strata, flood flows or analysis of other water quality or quantity characteristics.

(D) The description shall include a determination of the probable hydrologic consequences of the proposed surface mining activities, on the proposed mine plan area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese and any other parameters required by the director.

1. The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

2. The PHC determination shall include findings on:

A. Whether adverse impacts may occur to the hydrologic balance;

B. Whether acid- or toxic-forming materials are present that could result in the contamination of surface or ground water supplies;

C. Whether the proposed operation may approximately result in contamination, diminution or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial or other legitimate purpose;

D. What impact the proposed operation will have on—

(I) Sediment yield from the disturbed area;

(II) Acidity, total suspended and dissolved solids and other important water quality parameters of local impact;

(III) Flooding or stream flow alteration;

(IV) Ground and surface water availability; and

(V) Other characteristics as required by the regulatory authority.

[(E)] **3.** An application for a permit revision shall be reviewed by the regulatory authority to determine whether a new or updated PHC determination shall be required.

(E) Cumulative Hydrologic Impact Assessment.

1. The director shall provide an assessment of the probable cumulative hydrologic impacts (CHIA) of the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. The CHIA shall be sufficient to determine, for purposes of permit approval, whether the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The director may allow the applicant to submit data and analyses relevant to the CHIA with the permit application.

2. An application for a permit revision shall be reviewed by the director to determine whether a new or updated CHIA shall be required.

(11) Reclamation Plan—Ponds, Impoundments, Banks, Dams and Embankments.

(A) General. Each application shall include a general plan **and a detailed plan** for each proposed *[sedimentation pond]* **siltation structure**, water impoundment and coal processing waste bank, dam or embankment within the proposed mine plan area.

1. Each general plan shall—

A. Be prepared by, or under the direction of, and certified by a qualified registered professional engineer *[or a professional geologist]* with assistance from experts in related fields such as land surveying and landscape architecture;

B. Contain a description, map and cross-section of the structure and its location;

C. Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

D. Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;

E. Contain a certification statement which includes a schedule setting forth the dates that any detailed design plans for structures that are not submitted with the general plan will be submitted to the director. The commission or director shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins; and

F. Contain the calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under 10 CSR 40-3.040(6)(C)1. and 3.

2. **Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the requirements of this section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA).** Each detailed design plan for a structure that meets or exceeds the size or other criteria of the Mine Safety and Health Administration (MSHA), 30 CFR 77.216(a), shall—

A. Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying and landscape architecture;

B. Include any geotechnical investigation, design and construction requirements for the structure;

C. Describe the operation and maintenance requirements for each structure; and

D. Describe the timetable and plans to remove each structure, if appropriate.

3. Each detailed design plan for a structure that does not meet the size or other criteria of *[30 CFR 77.216(a)]* **10 CSR 40-6.050(11)(A)2.** shall—

A. Be prepared by, or under the direction of, and certified by a qualified registered professional engineer and all coal processing waste dams and embankments covered by 10 CSR 40-3.080(9)–(11) shall be certified by a qualified registered professional engineer;

B. Include any design and construction requirements for the structure, including any required geotechnical information;

C. Describe the operation and maintenance requirements for each structure; and

D. Describe the timetable and plans to remove each structure, if appropriate.

(B) *[Sedimentation Ponds]* **Siltation Structures**. *[Sedimentation ponds]* **Siltation structures**, whether temporary or permanent, shall be designed in compliance with the requirements of 10 CSR 40-3.040(6). Any *[sedimentation pond]* **siltation structure** or earthen structure which will remain on the proposed mine plan area as a permanent water impoundment shall also be designed to comply with the requirements of 10 CSR 40-3.040*[(9)]***(10)**. Each plan, at a minimum, shall comply with the requirements of the MSHA, 30 CFR 77.216-1 and 30 CFR 77.216-2.

(C) Permanent and Temporary Impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 10 CSR 40-3.040(10). Each plan **for an impoundment meeting the size or other criteria of the Mine Safety and Health Administration** shall comply with the requirements of *[the MSHA,]* 30 CFR 77.216-1 and 30 CFR 77.216-2. **The plan required to be submitted to the district manager of MSHA under 30 CFR 77.216 shall be submitted to the director as part of the permit application in accordance with subsection (11)(A).**

(F) *[If the structure is twenty feet (20') or higher or impounds more than twenty (20) acre-feet,]* **If the structure meets the Class B or C criteria for dams in TR-60, or meets the size or other criteria of 30 CFR 77.216(a),** each plan under subsections (11)(B), (C) and (E) of this rule shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

(17) Transportation Facilities.

(B) Class I and II Road Certification. The plans and drawings for each Class I and II road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer *[or a qualified registered professional land surveyor]*, experienced in the design and construction of roads, as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the regulatory authority.

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.060 Requirements for Permits for Special Categories of Surface Coal Mining and Reclamation Operations. The commission is amending subsections (4)(C), (4)(D) and (4)(E).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and make minor corrections.

(4) Prime Farmlands.

(C) Application Contents—Prime Farmland. All permit applications for areas in which prime farmland has been identified within the proposed permit area shall include the following:

1. A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in the United States Department of Agriculture Handbooks 436 *Soil Taxonomy* (United States Soil Conservation Service, 1975), as amended on March 22, 1982 and October 5, 1982, and 18 *Soil Survey Manual* (United States Soil Conservation Service, 1951), as amended on December 18, 1979, May 7, 1980, May 9, 1980, September 11, 1980, June 9, 1981, June 29, 1981 and November 16, 1982. The *[United States Soil Conservation Service (SCS)]* **United States Natural Resources Conservation Service (NRCS)** establishes the standards of the National Cooperative Soil Survey and maintains a *National Soils Handbook* which gives current acceptable procedures for conducting soil surveys. This *National Soils Handbook* is available for review at area and state *[SCS]* **(NRCS)** offices.

A. United States Department of Agriculture Handbooks 436 and 18 are incorporated by reference as they exist on November 23, 1987. Notices of changes made to these publications will be periodically published in the *Federal Register*. The handbooks are on file and available for inspection at the Land

Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102. Copies of these documents are also available from the superintendent of documents, United States Government Printing Office, Washington, DC 20402, Stock Nos. 001-000-02597-0 and 001-000-00688-6, respectively. In addition, these documents are available for inspection at the national, state and area offices of the *[SCS]* **(NRCS)**, United States Department of Agriculture and through the Federal Register Library, 1100 L Street, NW., Washington, D.C. Incorporation by reference provisions were approved by the director of the *Federal Register* on June 29, 1981.

B. The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the United States *[SCS]* **(NRCS)**, including, but not limited to, soil horizon depths, pH and the range of soil densities for each prime farmland soil unit within the permit area. Other representative soil profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the state conservationist, United States *[SCS]* **(NRCS)**. The director may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil reconstruction standards of 10 CSR 40-4.030;

2. A plan for soil reconstruction, replacement and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of 10 CSR 40-4.030;

3. Scientific data, such as agricultural school studies, for areas with comparable soils, climate and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area;

4. The productivity prior to mining, including the average yield of food, fiber, forage or wood products obtained under a high level of management; and

5. United States *[SCS]* **(NRCS)** forms MO-LTP-1 and MO-LTP-2 shall be submitted as part of the application.

(D) Consultation With the Secretary of Agriculture.

1. The secretary of agriculture has responsibilities with respect to prime farmland soils and has assigned the prime farmland responsibilities arising under the Act to the chief of the United States *[SCS]* **NRCS**. The United States *[SCS]* **NRCS** shall carry out consultation and review through the state conservationist located in each state.

2. The state conservationist shall provide to the director a list of prime farmland soils, their location, physical and chemical characteristics, crop yields and associated data necessary to support adequate prime farmland soil descriptions.

3. The state conservationist shall assist the director in describing the nature and extent of the reconnaissance inspection required in 10 CSR 40-6.040(16)(C).

4. Before any permit is used for areas that include prime farmland, the director shall consult with the state conservationist. The state conservationist shall provide for the review of, and comment on, the proposed method of soil reconstruction in the plan submitted under paragraph (4)(C)2., of this rule. If the state conservationist considers those methods to be inadequate, s/he shall suggest revisions to the director which result in more complete and adequate reconstruction.

(E) Issuance of Permit. A permit for the mining and reclamation of prime farmland may be granted by the director if s/he first finds, in writing, upon the basis of a complete application, that—

1. The approved proposed postmining land use of these prime farmlands will be cropland;

2. The permit incorporates as specific conditions the contents of the plan submitted under subsection (1)(B) of this rule, after consideration of any revisions to that plan suggested by the state conservationist under paragraph (1)(C)4. of this rule;

3. The applicant has the technological capability to restore the prime farmland, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management;

4. The proposed operations will be conducted in compliance with the requirements of 10 CSR 40-4.030 and other environmental protection performance and reclamation standards for mining and reclamation of prime farmland of the Land Reclamation Program; and

5. The aggregate total prime farmland acreage has not decreased from that which existed prior to mining. **Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation nonprime farmland portions of the permit area. The creation of any such water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained.**

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.070 Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions. The commissions is amending sections (3), (4), (5), (8) and (10).

PURPOSE: The purpose for this amendment is to correct rule reference and make minor clarifications.

(3) Opportunity for Submission of Written Comments *[or]* **on** Permit Applications.

(B) These comments shall be submitted to the commission and director within *[sixty (60)]* **thirty (30)** days after the *[application*

is filed.] **last publication of the newspaper advertisement required by subsection (2)(A) of this rule.**

(4) Right to File Written Objections.

(A) Any person whose interests are or may be adversely affected or an officer or head of any federal, state or local government agency or authority shall have the right to file written objections to an initial**, renewed,** or revised application for a permit within *[sixty (60)]* **thirty (30)** days after the *[application is filed.]* **last publication of the newspaper advertisement required by subsection (2)(A) of this rule.**

(5) Informal Conferences.

(B) Except as provided in subsection (5)(C) of this rule, if an informal conference is requested in accordance with subsection (5)(A) of this rule, the director shall hold an informal conference within thirty (30) days following the receipt of the request. The informal conference shall be conducted according to the following:

1. If requested under paragraph (5)(A)2. of this rule, the informal conference shall be held in the locality of the proposed mining;

2. The date, time and location of the informal conference shall be advertised by the director in a newspaper of general circulation in the locality of the proposed mine at least two (2) weeks prior to the scheduled conference;

3. If requested in writing by a conference requestor, within a reasonable time prior to the conference, the director shall arrange with the applicant to grant parties to the conference access to the mine plan area for the purpose of gathering information relevant to the conference; and

4. The conference shall be conducted by the director, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or *[stereographic]* **stenographic** record shall be made of the conference proceeding, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties to the conference until final release of the applicant's performance bond pursuant to 10 CSR 40-7.

(8) Criteria for Permit Approval or Denial. No permit or revision application shall be approved, unless the application affirmatively demonstrates, and the director finds, in writing, on the basis of information set forth in the application or from information otherwise available, which is documented in the approval and made available to the applicant, that—

(C) The assessment of the probable cumulative impacts of all anticipated coal mining in the general area on the hydrologic balance, as described in 10 CSR 40-6.050(9)*[(C)]* **(E)**, has been made by the commission or director and the operations proposed under the application have been designed to prevent damage to the hydrologic balance outside the proposed mine plan area;

(10) Permit Approval or Denial Actions.

(D) If no *[formal]* **informal** conference has been held, the director shall give his/her written findings to the permit applicant, approving, modifying or denying the application in whole or in part and stating the specific reason in the decision.

*AUTHORITY: sections 444.530 and 444.810, RSMo [1998] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.090 Permit Reviews, Revisions and Renewals and Transfer, Sale and Assignment of Rights Granted Under Permits. The commission is amending sections (4), (6) and (7).

PURPOSE: The purpose for this amendment is to make corrections to rule references and minor clarifications.

(4) Permit Revisions.

(B) The application for revision shall be filed in accordance with the following:

1. The permittee shall submit the application to the director within the time provided for by 10 CSR 40-6.010(4)(B)3.; and

2. The scale or extent of permit application information requirements and procedures, including notice and hearings, applicable to revision requests shall be *[that necessary for review]* **sufficient to demonstrate compliance with all applicable rules**. Any application for a revision which proposes significant alterations in the operations described in the materials submitted in the application for the original permit under 10 CSR 40-6.030, 10 CSR 40-6.040, 10 CSR 40-6.050, 10 CSR 40-6.060, 10 CSR 40-6.100, 10 CSR 40-6.110 or 10 CSR 40-6.120 or in the conditions of the original permit, at a minimum, shall be subject to the requirements of 10 CSR 40-6.070 and 10 CSR 40-6.080.

(6) Permit Renewals—Completed Applications.

(A) Contents. Complete applications for renewals of a permit shall be made within the time prescribed by 10 CSR 40-6.010(4)(B)*[3.]***2.** Renewal applications shall be in a form with contents required by the director in accordance with paragraph (6)(B)2. of this rule, including at a minimum, the following:

1. A statement of the name and address of the permittee, the term of the renewal requested, the permit number and a description of any changes to the matters set forth in the original application for a permit or prior permit renewal;

2. A copy of the newspaper notice and proof of publication of same under 10 CSR 40-6.070(2)(A); and

3. Evidence that a liability insurance policy under 10 CSR 40-7.050 will be provided by the applicant for the proposed period of renewal.

(7) Permit Renewals—Terms. Any permit renewal shall be for a term not to exceed the period of the original permit established under 10 CSR 40-6.070*[(11)]***(12)**.

AUTHORITY: sections 444.530 and 444.810, RSMo [1994] ***Supp. 1999****. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.100 Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related Information. The commission is amending sections (1) and (2).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(1) Identification of Interests.

(I) The applicant shall submit the information, required by this section and section (2) of this rule, in any prescribed format that is issued by the *[director.]* **Office of Surface Mining Reclamation and Enforcement (OSMRE).**

(2) Compliance Information. Each application shall contain—

[(C) A listing of each violation notice received by the applicant or any subsidiary, affiliate or persons controlled by or under common control with the applicant in connection with any surface coal mining operation during the three (3)-year period before the application date, for violations of any law, rule of the United States or of any state law, rule enacted pursuant to federal law, rule or of any provision of the act pertaining to air or water environmental protection and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. The application shall also contain a statement regarding each violation notice, or cessation order reported, including:

1. The date of issuance, the MSHA number and identity of the issuing regulatory authority, department or agency;

2. The name of the person to whom the violation notice was issued;

3. A brief description of the particular violation alleged in the notice;

4. The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in subsection (2)(C) to obtain administrative or judicial review of the violations;

5. The current status of the proceedings and of the violation notice;

6. The actions, if any, taken by the applicant to abate the violation; and

7. Any identifying numbers for the operation, including the federal or state permit number and the MSHA number; and]

(C) For any violation of a provision of the Act, or of any law, rule or regulation of the United States, or of any state law, rule or regulation enacted pursuant to federal law, rule or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, a list of all violations notices received by the applicant during the three (3)-year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

1. Any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of issuance of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department or agency;

2. A brief description of the violation alleged in the notice;

3. The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in subsection (C) of this section to obtain administrative or judicial review of the violation;

4. The current status of the proceedings and of the violation notice; and

5. The actions, if any, taken by any person identified in subsection (C) of this section to abate the violation; and

AUTHORITY: section 444.810, RSMo [1994] ***Supp. 1999****. Original rule filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Jan. 5, 1987, effective July 1, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to

promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 6—Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration

PROPOSED AMENDMENT

10 CSR 40-6.120 Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan. The commission is amending sections (5), (7), (12), (14) and (15).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules; and to correct omissions and rule references.

(5) Reclamation Plan—Protection of Hydrologic Balance.

(E) *[Need]* **Cumulative Hydrologic Impact Assessment**.

1. The director shall provide an assessment of the probable cumulative hydrologic impacts (CHIA) of the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. The CHIA shall be sufficient to determine, for purposes of permit approval, whether the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The director may allow the applicant to submit data and analyses relevant to the CHIA with the permit application.

2. An application for a permit revision shall be reviewed by the director to determine whether a new or updated CHIA shall be required.

(7) Reclamation Plan—Ponds, Impoundments, Banks, Dams and Embankments.

(A) General. Each application shall include a general plan **and a detailed plan** for each proposed *[sedimentation pond]* **siltation structure**, water impoundment and coal processing waste bank, dam or embankment within the proposed mine plan area.

1. Each general plan shall—

A. Be prepared by or under the direction of and certified by a qualified registered professional engineer or by a professional geologist with assistance from experts in related fields such as land surveying and landscape architecture;

B. Contain a description, map and cross-section of the structure and its location;

C. Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

D. Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

E. Contain a certification statement which includes a schedule setting forth the dates when any detailed design plans for structures that are not submitted with the general plan will be submitted to the director. The commission or director shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

2. **Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the requirements of this section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA).** Each detailed design plan for a structure that meets or exceeds the size or other criteria of the *[Mine Safety and Health Administration (]*MSHA*[)]*, 30 CFR 77.216(a) shall—

A. Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying and landscape architecture;

B. Include any geotechnical investigation, design and construction requirements for the structure;

C. Describe the operation and maintenance requirements for each structure; and

D. Describe the timetable and plans to remove each structure, if appropriate.

3. Each detailed design plan for a structure that does not meet the size or other criteria of *[30 CFR 77.216(a)]* **10 CSR 40-6.120(7)(A)2.** shall—

A. Be prepared by or under the direction of and certified by a qualified registered professional engineer and all coal processing waste dams and embankments covered by 10 CSR 40-3.230(9)–(11) shall be certified by a qualified registered engineer;

B. Include any design and construction requirements for the structure, including any required geotechnical information;

C. Describe the operation and maintenance requirements for each structure; and

D. Describe the timetable and plans to remove each structure, if appropriate.

(B) *[Sedimentation Ponds]* **Siltation Structures**.

1. *[Sedimentation ponds]* **Siltation structures**, whether temporary or permanent, shall be designed in compliance with the requirements of 10 CSR 40-3.200(6). Any *[sedimentation pond]* **siltation structure** or earthen structure, which will remain on the proposed mine plan area as a permanent water impoundment shall also be designed to comply with the requirements of 10 CSR 40-3.200*[(9)]***(10)**.

2. Each plan, at a minimum, shall comply with the requirements of the MSHA, 30 CFR 77.216-1 and 77.216-2.

(C) Permanent and Temporary Impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 10 CSR 40-3.200(10). Each plan **for an impoundment meeting the size or other criteria of the Mine Safety and Health Administration** shall comply with the requirements of *[the MSHA,]* 30 CFR 77.216-1 and 30 CFR 77.216-2. **The plan required to be submitted to the district manager of MSHA under 30 CFR 77.216 shall be submitted to the director as part of the permit application in accordance with subsection (7)(A).**

(F) *[If the structure is twenty feet (20') or higher or impounds more than twenty (20) acre-feet,]* **If the structure meets the Class B or C criteria for dams in TR-60, or meets the size or other criteria of 30 CFR 77.216(a),** each plan under subsections (7)(B), (C) and (E) of this rule shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures and

long-term seepage conditions. The plan also shall contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

(12) Fish and Wildlife Plan.

(D) Each fish and wildlife plan shall include a description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations and how enhancement of these resources will be achieved where practicable. This description shall—

1. Be consistent with the requirements of this section **and 10 CSR 40-3.250**;

2. Apply at a minimum, to species and habitats identified under subsection (12)(C); and

3. Include—

A. Protective measures that will be used during the active mining phase of operation. Such measures may include the establishment of buffer zones, the selective location and special design of haul roads and power lines and the monitoring of surface water quality and quantity; and

B. Enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. Where the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(14) Operations Plans—Maps and Plans. Each application shall contain maps, plans and cross-sections of the proposed mine plan and adjacent areas as follows:

(B) The following shall be shown for the proposed permit area unless specifically required for the mine plan area or adjacent area by the requirements of this subsection:

1. Buildings, utility corridors and facilities to be used;

2. The area of land to be affected within the proposed mine plan area, according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond or other equivalent guarantee will be posted under 10 CSR 40-7;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal preparation waste, underground development waste and noncoal waste storage area;

6. Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;

7. Each source of waste and each waste disposal facility relating to coal processing or pollution control;

8. Each facility to be used to protect and enhance fish and wildlife-related environmental values;

9. Each explosive storage and handling facility;

10. Location of each *[sedimentation pond]* **siltation structure**, permanent water impoundment, coal processing waste bank and coal processing waste dam and embankment, in accordance with 10 CSR 40-6.120(7) and disposal areas for underground development waste and excess spoil, in accordance with 10 CSR 40-6.120(10);

11. Each profile, at cross-sections specified by the commission or director of the anticipated final surface configuration to be achieved for the affected areas;

12. Location of each water and subsidence monitoring point; and

13. Location of each facility that will remain on the proposed permit area as a permanent feature, after the completion of underground mining activities; and

(C) Maps, plans and cross-sections required under paragraphs (14)(B)5., 6., 10. and 11. of this rule shall be prepared by or under the direction of and certified by a qualified professional engineer or professional geologist experienced in the design and construction of impoundments with assistance from experts in related fields, such as land surveying and landscape architecture, except that—

1. Maps, plans and cross-sections for *[sedimentation ponds]* **siltation structures** may only be prepared by a qualified registered engineer; and

2. Excess spoil and underground development waste facilities' maps, plans and cross-sections may be prepared by a qualified registered professional engineer.

(15) Transportation Facilities.

(B) Class I and II Road Certification. The plans and drawings for each *[c]***C**lass I and II road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, *[or a qualified registered professional land surveyor,]* experienced in the design and construction of roads, as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the regulatory authority.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed Dec. 15, 1987, effective April 1, 1988. Amended: Filed March 2, 1989, effective May 15, 1989. Amended: Filed May 2, 1989, effective Aug. 1, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 7—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations

PROPOSED AMENDMENT

10 CSR 40-7.011 Bond Requirements. The commission is amending subsections (6)(A) and (D).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(6) Types of Bonds. The director may accept surety bonds, personal bonds and self-bonding.

(A) Surety bonds shall be subject to the following conditions:

1. The surety bond shall be submitted on a form provided by the director;

2. No bond of a surety company will be accepted unless the bond shall not be cancelable for any reason whatsoever, including, but not limited to, nonpayment of premium, bankruptcy or insolvency of the permittee or issuance of notices of violations or cessation orders and assessment of penalties with respect to the operations covered by the bond, except that surety bond coverage for lands not disturbed may be canceled if the surety provides written notification and the director is in agreement. The director shall advise the surety, within thirty (30) days after receipt of a notice to cancel bond, whether the bond may be canceled on an undisturbed area;

3. A surety company's bond shall not be accepted in excess of ten percent (10%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

4. The total amount of the bonds issued by a surety on behalf of any permittee shall not exceed thirty percent (30%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

5. The surety shall be licensed to conduct a surety business in Missouri;

6. Both the surety and the permittee shall be primarily liable for completion of pit reclamation, with the surety's liability being limited to the penalty amount of the bond;

7. The bond shall provide that—

A. The surety will give prompt notice to the permittee and the director of any notice received or action filed alleging the insolvency or bankruptcy of the surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's license to do business; and

B. In the event the surety becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the permittee and the director;

8. The bond shall provide a mechanism for a bank or surety company to give prompt notice to the regulatory authority and the permittee of any action filed alleging the insolvency or bankruptcy of the surety company, the bank or the permittee, or alleging any violations which would result in suspension or revocation of the surety or bank charter or license to do business. Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond coverage in violation of subsection (2)(A). The director shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed sixty (60) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. The notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(A)6. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring immediate compliance with 10 CSR 40-3.150(4). **Mining operations shall not resume until the director has determined that an acceptable bond has been posted.** The operator shall also immediately begin to conduct reclamation operations in accordance with the reclamation plan; and

9. The bond shall be forfeitable upon revocation of the underlying permit.

(D) Self-Bonding.

1. Definitions. For the purposes of this section only—

A. Current assets means cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one (1) year or within the normal operating cycle of the business;

B. Current liabilities means obligations which are reasonably expected to be paid or liquidated within one (1) year or within the normal operating cycle of the business;

C. Fixed assets means plant and equipment, but does not include land or coal in place;

D. Liabilities means obligations to transfer assets or provide services to other entities in the future as a result of past transactions;

E. Net worth means total assets minus total liabilities and is equivalent to owners' equity; and

F. Tangible net worth means net worth minus intangibles such as goodwill and rights to patents or royalties.

2. The commission may accept a self-bond if the following conditions are met:

A. The applicant designates an agent for service of process in the state;

B. The applicant has been in continuous operation as a business entity the five (5) years preceding the application. The commission may accept the bond of a joint venture with fewer than five (5) years of continuous operation if each member has been in continuous operation for the five (5) years preceding the application;

C. The applicant submits financial information in sufficient detail to show one (1) of the following:

(I) The applicant has a current Moody's Investor Service or Standard and Poor's rating for its most recent bond issuance of A or higher;

(II) The applicant has a tangible net worth of at least ten (10) million dollars, a ratio of total liabilities to net worth of two and one-half (2 1/2) times or less and a ratio of current assets to current liabilities of 1.2 times or greater; *[and]* **or**

(III) The applicant's fixed assets in the United States total at least twenty (20) million dollars and the applicant has a ratio of total liabilities to net worth of two and one-half (2 1/2) times or less and a ratio of current assets to current liabilities of 1.2 times or greater; and

D. The applicant submits—

(I) Financial statements for the last complete fiscal year, accompanied by a report prepared by an independent certified public accountant, in conformity with generally accepted accounting principles, containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion; and

(II) Financial statements for completed quarters in the current fiscal year and additional information that may be requested by the director.

3. The commission may accept a written guarantee for an applicant's self-bond from a third-party guarantor with a long-term vested interest in the surface coal mining operation, if the guarantor meets the conditions of paragraph (5)(D)2. as if it were the applicant. The applicant must still meet the requirements of subparagraphs (5)(D)2.A., B. and D. of this rule. Copies of documents demonstrating that interest must be submitted to the director. The written guarantee shall provide for the following:

A. If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide to the commission funds, up to the bond amount, sufficient to complete the reclamation plan;

B. The guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the director at least ninety (90) days in advance of the cancellation date and the director accepts the cancellation; and

C. The cancellation may be accepted by the director only if the applicant obtains suitable replacement bond before the cancellation or if the covered lands have not been disturbed.

4. The total amount of the outstanding and proposed self-bonds for surface coal mining and reclamation operations shall not exceed twenty-five percent (25%) of the applicant's or third-party guarantor's tangible net worth in the United States, as determined by a certified public accountant.

5. For a self-bond, the guarantor shall execute an indemnity agreement according to the following:

A. The indemnity agreement shall be executed and signed by all persons and parties who are to be bound by it, including the parent *[corporate guarantor, a third-party]* **and** nonparent *[corporate guarantor, or both,]* **corporations,** and shall bind each jointly and severally. If the applicant is a partnership, joint venture or a syndicate, the agreement shall bind the partner or party who has a beneficial interest, directly or indirectly, in the applicant;

B. Corporations applying for a self-bond, and parent and nonparent corporations guaranteeing a permittee's self-bond, shall submit an indemnity agreement signed by two (2) corporate officers who are authorized to bind the corporations. A copy of the authorization shall be provided to the director along with an affidavit certifying that the agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement; and

C. Pursuant to 10 CSR 40-7.031(3), the applicant, parent *[or]* **and** nonparent *[corporate guarantor]* **corporation** shall be required to complete the approved reclamation plan for the lands in default or to pay to the regulatory authority an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. If permitted under state law, the indemnity agreement when under forfeiture shall operate as a judgement against those parties liable under the indemnity agreement.

6. Self-bonded permittees and third-party guarantors shall submit an update of the information required under subparagraphs (5)(D)2.C. and D. within ninety (90) days after the close of their fiscal years.

7. If the financial conditions of the permittee or the third-party guarantor change so that the criteria of this section are not satisfied, the permittee shall notify the director immediately and post an alternate bond in the same amount as the self-bond.

8. Upon notification that the conditions of the permittee no longer satisfy this section, the permittee shall be deemed to be without bond coverage in violation of subsection (2)(A). The director shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed sixty (60) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. The notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(F)2. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring immediate compliance with 10 CSR 40-3.150(4). **Mining operations shall not resume until the director has determined that an acceptable bond has been posted.**

9. The bond shall be forfeitable upon revocation of the underlying permit.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Dec. 9, 1982, effective April 11, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 7—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations

PROPOSED AMENDMENT

10 CSR 40-7.021 Duration and Release of Reclamation Liability. The commission is amending sections (1)–(3).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules and state law.

(1) Period of Liability.

(C) A regulatory authority may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation or increment, when the regulatory authority determines in writing that under the—

1. Initial program all requirements imposed under 10 CSR 40-2, 10 CSR 40-3, 10 CSR 40-4 and 10 CSR 40-8 have been successfully completed; or

2. Permanent program all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the regulatory authority has made a final decision in accordance with this chapter to release the performance bond fully.

(D) Following a termination under subsection (1)(C) of this rule, the regulatory authority shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (1)(C) of this rule was based upon fraud, collusion or misrepresentation of a material fact.

(2) Criteria and Schedule for Release of Reclamation Liability. Except as described in subsection (2)(E), reclamation liability shall be released in three (3) phases.

(A) An area shall qualify for release of Phase I liability upon completion of backfilling and grading, topsoiling, drainage control and initial seeding of the disturbed area. Phase I bond shall be retained on unreclaimed temporary structures, such as roads, *[sediment ponds]* **siltation structures**, diversions and stockpiles, on an acre-for-acre basis.

(B) An area shall qualify for release of Phase II liability when—

1. A permanent vegetative cover that meets the approved reclamation plan and is sufficient to control erosion is in place and no further augmentation of the vegetation is necessary;

2. With respect to woodlands and wildlife areas, the stocking of trees and shrubs has been established in accordance with 10 CSR 40-3.120(7) or 10 CSR 40-3.270(7);

3. The lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of section 444.855.2(10), RSMo, 10 CSR 40-3 and 10 CSR 40-4, the regulatory program or the permit; **and**

4. A plan for achieving Phase III release has been approved for the area requested for release and the plan has been incorporated into the permit, except for the prime farmland soils in which case the soil productivity for prime farmlands shall have been returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding areas under equivalent management practices as determined from the soil survey performed pursuant to 10 CSR 40-4.030*[;]***.**

[5. A regulatory authority may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation or increment, when the regulatory authority determines in writing that under the—

A. Initial program all requirements imposed under 10 CSR 40-2, 10 CSR 40-3, 10 CSR 40-4 and 10 CSR 40-8 have been successfully completed; or

B. Permanent program all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the regulatory authority has made a final decision in accordance with this chapter to release the performance bond fully; and

6. Following a termination under paragraph (2)(B)5. of this rule, the regulatory authority shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in paragraph (2)(B)5. of this rule was based upon fraud, collusion or misrepresentation of a material fact.]

(3) Procedures for Obtaining Release of Reclamation Liability.

(C) At the time of final or Phase III bond release submittal, the operator shall include evidence that an affidavit has been recorded with the recorder of deeds in the county where the mined land is located generally describing the parcel or parcels of land where operations such as underground mining, auger mining, covering of slurry ponds, or other underground activities occurred which could impact or limit future use of that land. This requirement shall be applicable to mined land where Phase I reclamation was completed on or after September 1, 1992.

(D) Notarized Statement of Accomplished Reclamation. The permittee shall include in the application for reclamation liability release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the Surface Coal Mining Law, the regulatory program, and the approved reclamation plan. Such certification shall be submitted for each application and each phase of bond release.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Dec. 9, 1982, effective April 11, 1983. Amended: Filed June 27, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Rescinded and readopted: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy, state Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 8—Definitions and General Requirements

PROPOSED AMENDMENT

10 CSR 40-8.010 Definitions. The commission is amending section (1).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules; and to correct grammatical errors and make clarifications.

(1) Definitions.

(A) As used throughout 10 CSR 40-3—10 CSR 40-9, the following terms have the specified meaning except where otherwise indicated:

1. Acid drainage means water with a pH of less than six (6) and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations;

2. Acid-forming materials mean earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weathering processes, form acids that may create acid drainage;

3. Act means the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87);

4. Adjacent area means land located outside the affected area, permit area or mine area, depending on the context in which adjacent area is used, where air, surface or ground water, fish, wildlife, vegetation or other resources may be adversely impacted

by surface coal mining and reclamation operations including probable impacts from underground workings;

5. Affected area means any land or water surface area which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes the disturbed area; any area upon which surface coal mining and reclamation operations are conducted; any adjacent lands the use of which is incidental to surface coal mining and reclamation operations; all areas covered by new and existing roads used to gain access to, or for hauling coal to or from surface coal mining and reclamation operations, except as provided in this definition; any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas; any area upon which are sited structures, facilities or other property material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings. Public roads may be included in the affected area and regulated on a case-by-case basis, as determined by the extent of mining-related use;

6. Agricultural use means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing and watering of livestock and the cropping, cultivation and harvesting of plants;

7. Anthracite means coal classified as anthracite in ASTM Standard D 388-77. Coal classifications are published by the American Society for Testing and Materials (ASTM) under the title, *Standard Specification for Classification of Coals by Rank*, ASTM D 388-77, on pages 220–224. Table I which classifies the coals by rank is presented on page 223. This publication is incorporated by reference as it exists on February 11, 1980;

8. Applicant means any person seeking a permit from the commission or director to conduct surface coal mining and reclamation operations or a revision or renewal of the permit;

9. Approximate original contour means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain with all highwalls, spoil piles and coal refuse **piles eliminated. Permanent water impoundments** may be permitted where it is determined that they comply with *[10 CSR 40-3.049(9) and (16)]* **10 CSR 40-3.040(10) and (17)** and 10 CSR 40-3.130;

10. Aquifer means a zone, stratum or group of strata that can store and transmit water in sufficient quantities for a specific use;

11. Auger mining means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface;

12. Best technology currently available means equipment, devices, systems, methods or techniques which will—

A. Prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by applicable state or federal laws; and

B. Minimize, to the extent possible, disturbance and adverse impact on fish, wildlife and related environmental values and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods or techniques which are currently available anywhere even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of *[sedimentation ponds]* **siltation structures** in accordance with 10 CSR 40-3. Within the constraints of the permanent program, the commission and director will determine the best technology currently available on a case-by-case basis;

13. Buffer zone means a boundary which establishes a limit of mining-related disturbance beyond which a variance to the regulations must be obtained before disturbance;

14. Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous or lignite by ASTM Standard D 388-77, referred to and incorporated by reference in the definition of anthracite in paragraph (1)(A)7.;

15. Coal exploration means the field gathering of—

A. Surface or subsurface geologic, physical or chemical data by mapping, trenching, drilling, geophysical or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

B. Environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of the regulatory program;

16. Coal mine waste means coal processing waste and underground development waste;

17. Coal preparation area means that portion of the permitted area used for the benefication of raw coal and structures related to the benefication process, such as the washer, tipple, crusher, slurry pond(s), gob pile and all waste material directly connected with the cleaning, preparation and shipping of coal, but does not include subsurface coal waste disposal areas;

18. Coal preparation area reclamation means the reclamation of the coal preparation area by disposal or burial, or both, of coal waste according to the approved reclamation plan, the replacement of topsoil and initial seeding;

19. Coal processing plant or coal preparation plant means a facility where coal is subjected to chemical or physical processing or cleaning, concentrating or other processing or preparation. It includes facilities associated with coal preparation activities, including, but not limited to, the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; and roads, railroad and other transport facilities;

20. Coal processing waste means earth materials which are separated and wasted from the product coal during the cleaning, concentrating or other processing or preparation of coal;

21. Coal processing waste bank means a surface deposit of coal mine waste that does not impound water, slurry or other liquid or semiliquid material;

22. Combustible material means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise;

23. Commission means the Land Reclamation Commission created by section 444.520, RSMo;

24. Compaction means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort, such as from repeated application of wheel, track or roller loads from heavy equipment;

25. Cropland means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes and includes row crops, small grain crops, hay crops, nursery crops, orchard crops and other similar specialty crops;

26. Cumulative impact area means the area, including the permit area within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and ground water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

A. The proposed operation;

B. All existing operations;

C. Any operations for which a permit application has been submitted to the Land Reclamation Program; and

D. All operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available;

27. Department means the Department of the Interior;

28. Director means the director of the Land Reclamation Commission;

29. Director of the office means the director of the Office of Surface Mining Reclamation and Enforcement or the representative of the director of the office;

30. Disturbed area means an area where vegetation, topsoil or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond required by 10 CSR 40-7 is released;

31. Diversion means a channel, embankment or other man-made structure constructed to divert water from one (1) area to another;

32. Downslope means the land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor;

33. Embankment means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert or store water, support roads or railways or for other similar purposes;

34. Ephemeral stream means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and which has a channel bottom that is always above the local water table;

35. Existing structure means a structure or facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to the approval of a state program;

36. Federal lands means any land, including mineral interest, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands;

37. Federal lands program means a program established by the secretary pursuant to /S/section 523 of the Act to regulate surface coal mining and reclamation operations on federal lands;

38. Federal program means a program established by the secretary pursuant to /S/section 504 of the Act to regulate coal exploration and surface coal mining and reclamation operations on nonfederal and non-Indian lands within a state in accordance with the Act and 30 CFR 736;

39. Fugitive dust means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation operations it may include: emissions from haul roads; wind erosion of exposed surfaces, storage piles and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported or redistributed;

40. Groundwater means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated;

41. Half-shrub means a perennial plant with a woody base whose annually produced stems die back each year;

42. Head-of-hollow fill means a fill structure consisting of any material, other than coal processing waste and organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty degrees (>20°) or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten degrees (>10°). In fills with less than two hundred fifty thousand (<250,000) cubic yards of material, associated with contour mining, the top surface of the fill will be at the elevation of the coal seam. In all other head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area;

43. Highwall means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities;

44. Historically used for cropland means—

A. Lands that have been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the acquisition, including purchase, lease or option, of the land for the purpose of conducting or allowing through resale, lease or option the conduct of surface coal mining and reclamation operations;

B. Lands determined on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific five (5)-year-in-ten (10) criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

C. Lands that would likely have been used as cropland for any five (5) out of the last ten (10) years immediately preceding acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land;

45. Hydrologic balance means the relationship between the quality and quantity of water inflow to, water outflow from and water storage in a hydrologic unit, such as a drainage basin, aquifer, soil zone, lake or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation and changes in ground and surface water storage;

46. Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface and returns to the atmosphere as vapor by means of evaporation and transpiration;

47. Imminent danger to the health and safety of the public means the existence of any condition or practice, or any violation of a permit or other requirements of the law in a surface coal mining and reclamation operation, which condition, practice or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice or violation can be abated. A reasonable expectation of death or serious injury before abatement exists, if a rational person subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement;

48. Impounding structure means a dam, embankment or other structure used to impound water, slurry or other liquid or semiliquid material;

49. Impoundment means all water, sediment, slurry or other liquid or semiliquid holding structures and depressions, either naturally formed or artificially built;

50. *In situ* processes means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching or other chemical or physical processing of coal. The term includes, but is not limited to, *in situ* gasification, *in situ* leaching, slurry mining, solution mining, bore-hole mining and fluid recovery mining;

51. Intermittent stream means a stream or reach of a stream that—

A. Drains a watershed of at least one (1) square mile; or

B. Is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and groundwater discharge;

52. Land use means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use or uses from one (1) of the following

categories to another shall be considered as a change to an alternative land use which is subject to approval in the permit and plan:

A. Cropland means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes and includes row crops, small grain crops, hay crops, nursery crops, orchard crops and other similar specialty crops. Land used for facilities in support of cropland farming operations which is adjacent to or an integral part of these operations is also included for purposes of these land use categories;

B. Pasture means land used primarily for the long-term production of adapted, domesticated, forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. Land used for facilities in support of pastureland or land occasionally cut for hay which is adjacent to or an integral part of these operations is also included;

C. Prime farmland means an area which has been historically used for crop production, as defined previously, and which has prime farmland soils as defined by the United States Department of Agriculture, Soil Conservation Service **(now known as the Natural Resources Conservation Service)** in 7 CFR 657;

D. Woodland means land used or managed for the long-term production of wood, wood fiber or wood-derived products. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included;

E. Residential includes single- and multi-family housing, mobile home parks and other residential lodgings. Land used for facilities in support of residential operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, vehicle parking and open space that directly relate to the residential use;

F. Industrial/commercial means land used for—

(I) Extraction or transformation of materials for fabrication of products, wholesaling of products or for long-term storage of products. This includes all heavy and light manufacturing facilities such as lumber and wood processing, chemical manufacturing, petroleum refining and fabricated metal products manufactured. Land used for facilities in support of these operations which is adjacent to or an integral part of that operation is also included. Support facilities include, but are not limited to, all railroad or other transportation facilities; and

(II) Retail or trade of goods or services, including hotels, motels, stores, restaurants and other commercial establishments. Land used for facilities in support of commercial operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, parking, storage or shipping facilities;

G. Recreation means land used for public or private leisure-time use, including developed recreation facilities such as parks, camps and amusement areas, as well as areas for less intensive uses such as hiking, canoeing and other undeveloped recreational uses;

H. Fish and wildlife habitat means land dedicated wholly or partially to the production, protection or management of species of fish or wildlife;

I. Water includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control and water supply; and

J. Undeveloped land means land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession;

53. Law, the law, this law, state surface coal mining and reclamation law or surface coal mining law means sections 444.800–444.940, RSMo;

54. Mine plan area means the same as the permit area. Other terms defined in this rule which relate closely to mine plan area are—

A. Affected area, which will always be within or the same as the permit area; and

B. Adjacent area, which may surround or extend beyond the affected area, permit area or mine plan area;

55. Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing microclimatic conditions suitable for germination and growth;

56. Noxious plants means species that have been included on official state lists of noxious plants;

57. Office means the Office of Surface Mining Reclamation and Enforcement (OSMRE) established under Title II of the Act;

58. Operator means any person engaged in coal mining;

59. Other treatment facilities means any chemical treatments, such as flocculation **or neutralization,** or mechanical structures, such as clarifiers **or precipitators**, that have a point source discharge and that are utilized**—**

A. *[to]* **To** prevent additional contributions of **dissolved or** suspended solids to stream flow or runoff outside the permit area; **or**

B. To comply with all applicable state and federal water quality laws and regulations;

60. Outslope means the face of the spoil or embankment sloping downward from the highest elevation to the toe;

61. Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit excluding topsoil;

62. Perennial stream means a stream or part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream;

63. Performance bond means a surety bond, personal bond or a combination of them, by which a permittee assures faithful performance of all the requirements of the regulatory program and the requirements of the permit and reclamation plan;

64. Permanent diversion means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention in the permit and plan and other appropriate state and federal agencies;

65. Permit means a permit to conduct surface coal mining and reclamation operations or coal exploration operations issued by the commission pursuant to the regulatory program;

66. Permit area means the area of land indicated on the approved map submitted by the operator with his/her application, which area of land shall be covered by the operator's bond and shall be readily identifiable by appropriate markers on the site;

67. Permittee means a person holding a permit or required by this law to hold a permit issued by the commission or director pursuant to this law to conduct surface coal mining and reclamation operations and coal exploration;

68. Person means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties;

69. Person having an interest which is or may be adversely affected or person with a valid legal interest shall include any person:

A. Who uses any resource of economic, recreational, aesthetic or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the commission or director; or

B. Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the commission or director;

70. Plan means the reclamation plan submitted by an applicant as a condition precedent to receiving a permit;

71. Precipitation event means a quantity of water resulting from drizzle, rain, snow, sleet or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these rules, precipitation event also includes that quantity of water emanating from snow cover as snow melts in a limited period of time;

72. Previously mined area means land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the standards of 10 CSR 40 Chapters 3–8;

73. Prime farmland means land *[which historically has been used for cropland and]* which meets the technical criteria established by the *[s]***S**ecretary of *[a]***A**griculture in 7 CFR 657 (FR Vol. 4, No. 21) *[on the basis of factors such as moisture, availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding and erosion characteristics]* **and which has historically been used for cropland as that phrase is defined above**;

74. Public office means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours;

75. Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation;

76. Reclamation means those actions taken to restore mined land, as required by the regulatory program, to postmining land use approved in the permit and plan;

77. Reclamation plan means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations;

78. Recurrence interval means the interval of time in which a precipitation event is expected to occur once on the average. For example, the ten (10)-year, twenty-four (24)-hour precipitation event would be that twenty-four (24)-hour precipitation event expected to occur on the average once in ten (10) years;

79. Reference area means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by crop production methods approved in the permit and plan. Reference areas must be representative of geology, soil, slope and vegetation in the permit area;

80. Refuse pile means a surface deposit of coal mine waste that does not impound water, slurry or other liquid or semiliquid material;

81. Regional director means a regional director of the office or a regional director's representative;

82. Regulatory authority means the Land Reclamation Commission, the director, or their designated representatives and employees unless otherwise specified in these rules;

*[82.]***83.** Regulatory program means the law and all regulations adopted pursuant to the law and submitted to and approved by the secretary of the office;

*[83.]***84.** Renewable resource lands means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber and grazing lands;

*[84.]***85.** Road means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, structures, ditches, and surface. The term includes access and haul roads constructed, used, reconstructed, improved or maintained for use in coal exploration or surface coal mining and reclamation operations, including use by coal-hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

A. Class I road means a road that is utilized for transportation of coal.

B. Class II road means any road, other than a Class I road, planned to be used over a six (6)-month period or longer.

C. Class III road means any road, other than a Class I road, planned to be used over a period of fewer than six (6) months;

*[85.]***86.** Safety factor means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices;

*[86.]***87.** Secretary of the office means the secretary of the interior or the secretary's representative;

[87. Sedimentation pond means a primacy sediment control structure designed, constructed and maintained in accordance with 10 CSR 40-3.040(6) and including, but not limited to, barrier, dam or excavated depression which slows down water runoff to allow sediment to settle out. A sedimentation pond shall not include secondary sedimentation control structures, such as straw dikes, riprap, check dams, mulches, dugouts and other measures that reduce overland flow velocity, reduce runoff volume or trap sediment, to the extent that those secondary sedimentation structures drain to the sedimentation pond;]

88. Significant, imminent environmental harm to land, air or water resources means an environmental harm is—

A. An adverse impact on land, air or water resources, which resources include, but are not limited to, plant and animal life;

B. Imminent, if a condition, practice or violation exists which—

(I) Is causing harm; or

(II) May reasonably be expected to cause harm at any time before the end of the reasonable abatement time that would be set under section 444.855.2, RSMo; and

C. Significant if that harm is appreciable and not immediately reparable;

89. Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility, it also means a primacy sediment control structure designed, constructed and maintained in accordance with 10 CSR 40-3.040(6) and including, but not limited to, barrier, dam or excavated depression which slows down water runoff to allow sediment to settle out. A siltation structure shall not include secondary sedimentation control structures, such as straw dikes, riprap, check dams, mulches, dugouts and other measures that reduce overland flow velocity, reduce runoff volume or trap sediment, to the extent that those secondary sedimentation structures drain to the siltation structure;

[89.] **90.** Slope means average inclination of a surface, measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (for example, 1v:5h (20%)). It may also be expressed as a percent or in degrees;

[90.] **91.** Soil horizons means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three (3) major soil horizons are—

A. A horizon. The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant and leaching of soluble or suspended particles is typically the greatest;

B. B horizon. The layer that typically is immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizon; and

C. C horizon. The deepest layer of soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity;

[91.] **92.** Soil survey means a field and other investigation resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies and interprets those soils for use. Soil surveys must meet the standards of the National Cooperative Soil Surveys incorporated by reference in 10 CSR 40-6.060(4)(B)1.;

[92.] **93.** Spoil means overburden that has been removed during surface coal mining operations;

[93.] **94.** Stabilize means to control movement of soil, spoil piles or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating;

[94.] **95.** Steep slope means any slope of more than twenty degrees (20°) or a lesser slope as may be designated in the permit and plan after consideration of soil, climate and other characteristics of a region;

[95.] **96.** Substantially disturb means, for purposes of coal exploration, to significantly impact upon land, air or water resources by blasting; removal of vegetation, topsoil or overburden; construction of roads or other access routes; placement of excavated earth or waste material on the natural land surface or other activities; or to remove more than two hundred fifty (250) tons of coal;

[96.] **97.** Surface coal mining operations means—

A. Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine. The activities include excavation for the purpose of obtaining coal, including common methods such as contour, strip, auger, mountaintop removal, box cut, open pit and area mining, the uses of explosives and blasting, and *in situ* distillation or retorting, leaching or other chemical or physical processing and the cleaning, concentrating or other processing or preparation, loading of coal for interstate commerce at or near the minesite; provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to section 444.845, RSMo; and provided further that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

B. Areas upon which the activities described in subparagraph (1)(A)*[14.A.]***98.** of this rule occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities, and for haulage and excavation, working, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other property or material on the surface, resulting from or incident to those activities;

[97.] **98.** Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary or incidental to the reclamation of these operations. This term includes the term surface coal mining operations;

[98.] **99.** Surface mining activities means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location;

[99.] **100.** Suspended solids or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials, carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for wastewater and analyses (40 CFR 136);

[100.] **101.** Temporary diversion means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and not approved in the permit and plan to remain after reclamation as part of the approved post*[-]*mining land use;

[101.] **102.** Ton means two thousand pounds (2,000 lbs.) *avoirdupois* (.90718 metric ton);

[102.] **103.** Topsoil means the A soil horizon layer of the three (3) major soil horizons;

[103.] **104.** Toxic-forming materials means earth materials or wastes which, if acted upon by air, water, weathering or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water;

[104.] **105.** Toxic mine drainage means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill, injure or impair biota commonly present in the area that might be exposed to it;

[105.] **106.** Underground development waste means waste rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone or related materials that are excavated, moved and disposed of during development and preparation of areas incident to underground mining activities;

[106.] **107.** Underground mining activities means a combination of—

A. Surface operations incident to underground extraction of coal or *in situ* processing, such as construction, use, maintenance and reclamation of roads, aboveground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

B. Underground operations such as underground construction, operation and reclamation of shafts, adits, underground support facilities, *in situ* processing and underground mining, hauling, storage and blasting;

[107.] **108.** Valley fill means a fill structure consisting of any material other than coal waste and organic material that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than twenty degrees (20°) or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees (10°); and

[108.] **109.** Water table means the upper surface of a zone of saturation, where the body of groundwater is not confined by an overlying impermeable zone.

*AUTHORITY: sections 444.530 and 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed June 2, 1988, effective Aug. 25, 1988. Amended: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed May 2, 1989, effective Aug. 1, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state,

Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 8—Definitions and General Requirements

PROPOSED AMENDMENT

10 CSR 40-8.030 Permanent Program Inspection and Enforcement. The commission is amending sections (1), (6), (10) and (12).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts, reflect recent changes in the federal rules and to correct misspellings and make other clarifications.

(1) Inspections by the Commission or Director.

(F) Abandoned site means a surface coal mining and reclamation operation for which the regulatory authority has found in writing that—

1. All surface and underground coal mining and reclamation activities at the site have ceased;

2. The regulatory authority **or office** has issued at least one (1) notice of violation and either—

A. Is unable to serve the notice despite diligent efforts to do so; or

B. The notice was served and has progressed to a failure-to-abate cessation order;

3. The regulatory authority is taking action to ensure—

A. That the permittee and operator, and owners and controllers of the permittee and operator will be precluded from receiving future permits while violations continue at the site; and

B. Pursuant to sections 444.870.5, 444.870.6, 444.885.3 or 444.885.5 of the Surface Coal Mining Law, that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where, after evaluating the circumstances, it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

4. Where the site is, or was, permitted or bonded—

A. The permit has expired or been *[removed, or permit revocation proceedings have been initiated and are being pursued diligently]* **revoked**; and

B. The regulatory authority has initiated and is diligently pursuing forfeiture of, or has forfeited, the performance bond.

(G) In lieu of the inspection frequency established in subsections *[(5)]***(1)**(A) and (B) of this rule, the regulatory authority shall inspect each abandoned site *[as necessary to monitor for changes of environmental conditions or operational status at the site. Before ceasing to perform inspections at the frequency required by subsections (5)(A) and (B) of this rule at an abandoned site, the regulatory authority shall—]* **on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.**

[1. Evaluate the environmental conditions and operational status of the site; and

2. Document in writing the inspection frequency necessary to comply with subsection (5)(G) of this rule and the reasons for selecting that frequency.]

1. In selecting an alternate inspection frequency authorized under the subsection above, the regulatory authority shall first conduct a complete inspection of the abandoned site and provide public notice under paragraph (G)2. of this section. Following the inspection and public notice, the regulatory authority shall prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

A. How the site meets each of the criteria under the definition of an abandoned site under subsection (F) of this section and thereby qualifies for a reduction in inspection frequency;

B. Whether, and to what extent, there exist on the site impoundments, earthen structures or other conditions that currently pose, or may reasonably be expected to pose, imminent dangers to the health or safety of the public or significant environmental harms to land, air, or water resources;

C. The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit;

D. The degree to which erosion and sediment control is present and functioning;

E. The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools and other public or commercial buildings and facilities;

F. The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with time; and

G. Based on a review of the complete and partial inspection report record for the site during at least the last two (2) consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.

2. Provide the public notice and opportunity to comment required under subparagraph (G).1. of this section as follows:

A. The regulatory authority shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a thirty (30)-day period in which to submit written comments.

B. The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the bond status of the permit, the telephone number and the address of the regulatory authority where written comments on the reduced inspection frequency may be submitted, and the closing date of the comment period.

(6) Enforcement of Cessation Orders.

(A) Issuance of Cessation Orders for Imminent Danger or Harm.

1. An authorized representative of the commission immediately shall order a cessation of surface coal mining and reclamation operations or of the relevant portion of them, if s/he finds any

condition or practice, or any violation of the regulatory program or any condition of a permit imposed under the program which—

A. Creates an imminent danger to the health or safety of the public; or

B. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

2. Surface coal mining and reclamation operations conducted by any person without a valid surface coal mining permit constitute a condition or practice which causes or can be reasonably expected to cause significant environmental harm to land, air or water resources, unless these operations are an integral, uninterrupted extension of previously permitted operations, and the person conducting these operations has filed a timely and complete application for a permit to conduct the operations.

3. If the cessation ordered under paragraph *[(7)]***(6)**(A)1. of this *[section]* **rule** will not completely abate the imminent danger or harm in the most expeditious manner physically possible, the authorized representative of the commission shall impose affirmative obligations on the person to whom it is issued to abate the condition, practice or violation. The order shall specify the time by which abatement shall be accomplished and may require, among other things, the use of existing or additional personnel and equipment.

(B) Cessation Order in Situations of a Failure to Abate a Notice of Violation or Notice of Delinquent Reclamation.

1. An authorized representative of the commission immediately shall order a cessation of coal exploration or surface coal mining and reclamation operations, or of the relevant portion of them, when a notice of violation has been issued under subsection (7)(A) **of this rule** and the permittee to whom it was issued fails to abate the violation within the abating period fixed by the authorized representative or subsequently extended by the commission or director.

2. The director shall order a cessation of coal exploration or surface coal mining and reclamation operations, or the relevant portion, if a permittee fails to abate a notice of delinquent reclamation within the period established for abatement.

3. A cessation order issued under this subsection shall require the person to whom it is issued to take all steps the authorized representative of the commission deems necessary to abate the violations covered by the order in the most expeditious manner physically possible.

(10) Formal Review of Citations.

(A) A person issued a notice of violation or cessation order under sections (6) and (7) **of this rule**, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of that action by filing an application for review and request for hearing with the commission, under this rule within thirty (30) days after receiving notice of the action.

(12) Inability to Comply.

(C) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under 10 CSR 40-8.040 and of the duration of the suspension of a permit under *[subsection (8)(E)]* **10 CSR 40-7.031**.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed May 12, 1980, effective Sept. 12, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Amended: Filed Aug. 13, 1982, effective Nov. 11, 1982. Amended: Filed Dec. 9, 1982, effective April 11, 1983. Amended: Filed June 3, 1985, effective Oct. 28, 1985. Amended: Filed June 27, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 8—Definitions and General Requirements

PROPOSED AMENDMENT

10 CSR 40-8.050 Small Operators' Assistance. The commission is amending the Purpose and sections (1), (2), (5) and (9).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

*PURPOSE: This rule [brings Missouri's regulations into line with federal language] **sets forth the requirements for the Small Operator's Assistance Program pursuant to 444.530 and 444.810, RSMo**.*

(1) Definition. Qualified laboratory means a designated public agency, private firm, institution or analytical laboratory *[which can prepare]* **that can provide** the required determination of probable hydrologic consequences or statement of results of test borings or core samplings **or other services as specified in section (5) of this rule** under the Small Operators' Assistance Program and which meets the standards of section (6) of this rule.

(2) Eligibility for Assistance. An applicant is eligible for assistance if s/he—

(A) Intends to apply for a permit pursuant to the law;

(B) Establishes that his/her probable total *[actual and]* attributed **annual** production from all locations *[during any consecutive twelve (12)-month period either during the term of his/her permit or during the first five (5) years after issuance of his/her permit, whichever period is shorter,]* **on which the operator is issued the surface coal mining and reclamation permit,** will not exceed three hundred thousand (300,000) tons. Production from the following operations shall be attributed to the applicant:

1. The *pro rata* share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a *[five]* **ten** percent (*[5]* **10**%) interest;

2. The *pro rata* share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than *[five]* **ten** percent (*[5]* **10**%) of the applicant's operation;

3. All coal produced by operations owned by persons who, directly or indirectly, control the applicant by reason of direction of the management; and

4. All coal produced by operations owned by members of the applicant's family and the applicant's relatives, unless it is established that there is no direct or indirect business relationship between or among them;

(5) Program Services and Data Requirements.

(A) To the extent possible with available funds, the director or commission shall select and pay a qualified laboratory to make the determination and statement **and provide other services** referenced in subsection (5)(B) of this rule for eligible operators who request assistance.

(B) The director or commission shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the director or commission shall be sufficient to satisfy the requirements for—

1. The determination of the probable hydrologic consequences of the surface mining and reclamation operations in the proposed permit area and adjacent areas **including the engineering analysis and designs necessary for the determination** in accordance with 10 CSR 40-6.050(9)(C) and any other applicable provisions of this chapter; *[and]*

2. The **drilling and** statement of the results of test borings or core samplings for the proposed permit area in accordance with 10 CSR 40-6.040(5) and 10 CSR 40-6.110(5), and any other applicable provisions of this chapter*[.]***;**

3. The development of cross-section maps and plans required by 10 CSR 40-6.040(15);

4. The collection of archaeological and historic information and related plans required by 10 CSR 40-6.040(3)(B) and 10 CSR 40-6.050(14) and any other archaeological and historic information required by the regulatory authority;

5. Pre-blast surveys required by 10 CSR 40-6.050(4); and

6. The collection of site-specific resources information, the production of protection and enhancement plans for fish and wildlife habitats required by 10 CSR 40-6.050(7) and information and plans for any other environmental values required by the regulatory authority under the Act.

(9) Applicant Liability.

(A) *[The applicant shall reimburse the director or commission for the cost of the laboratory services performed pursuant to this section if]* **A coal operator who has received assistance pursuant to section (5) of this rule, shall reimburse the director or commission for the cost of the services rendered if**—

1. The applicant submits false information, fails to submit a permit application within one (1) year from the date of receipt of the approved laboratory report or fails to mine after obtaining a permit;

2. The director or commission finds that the *[applicant's]* **operator's** actual and attributed annual production of coal for all locations exceeds *[one]* **three** hundred thousand *[(100,000)]* **(300,000)** tons during *[any consecutive twelve (12)-month period either during the term of the permit for which assistance is provided or during the first five (5) years after issuance of the permit, whichever is shorter]* **the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit**; or

3. The permit is sold, transferred or assigned to another person and the transferee's total actual and attributed production exceeds the *[one]* **three** hundred thousand *[(100,000)]* **(300,000)**-ton annual production limit during *[any consecutive twelve (12)-month period of the remaining term of the permit]* **the twelve (12) months immediately following the date on which the permit was originally issued**. Under this section, the applicant and its successor are jointly and severally obligated to reimburse the director or commission.

*AUTHORITY: section 444.530, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Aug. 13, 1982, effective Nov. 11, 1982. Rescinded and readopted: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 8—Definitions and General Requirements

PROPOSED AMENDMENT

10 CSR 40-8.070 Applicability and General Requirements. The commission is amending section (2).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(2) Applicability. 10 CSR 40-3—10 CSR 40-9 apply to all coal exploration and surface coal mining and reclamation operations, except the following:

(C) This subsection implements the exemption contained in section 444.815.6(3) of the Surface Coal Mining Law concerning the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the total tonnage of coal and other minerals removed for purposes of commercial use or sale.

1. As used in subsection (2)(C), the following terms have the meanings specified, except where otherwise indicated:

A. Cumulative measurement period means the period of time over which both cumulative production and cumulative revenue are measured—

(I) For purposes of determining the beginning of the cumulative measurement period, subject to regulatory authority approval, the operator must select and consistently use one (1) of the following:

(a) For mining areas where coal or other minerals were extracted prior to August 3, 1977, the date extraction of coal or other minerals commenced at that mining area or August 3, 1977; or

(b) For mining areas where extraction of coal or other minerals commenced on or after August 3, 1977, the date extraction of coal or other minerals commenced at that mining area, whichever is earlier; and

(II) For annual reporting purposes pursuant to paragraph (2)(C)*[10]***11**. of this rule, the end of the period for which cumulative production and revenue is calculated is either for mining areas where—

(a) Coal or other minerals were extracted prior to *[November]* **October** 1, 1990, **September 30, 1992** and every *[October 31]* **September 30** after that; or

(b) Extraction of coal or other minerals commenced on or after November 1, 1990, the last day of the calendar quarter during which coal extraction commenced and each anniversary of that day after commencement;

B. Cumulative production means the total tonnage of coal or other minerals extracted from a mining area during the cumulative measurement period. The inclusion of stockpiled coal and other mineral tonnages in this total is governed by paragraph (2)(C)8. of this rule;

C. Cumulative revenue means the total revenue derived from the sale of coal or other minerals and the fair market value of coal or other minerals transferred or used, but not sold, during the cumulative measurement period;

D. Mining area means an individual excavation site or pit from which coal, other minerals and overburden are removed; and

E. Other minerals means any commercially valuable substance mined for its mineral value, excluding coal, topsoil, waste and fill material.

2. Collection of information procedures are described in the following:

A. The collections of information contained in paragraphs (2)(C)3., 4., 5., 7. and 10. of this rule have been approved by the Land Reclamation Commission. The information will be used to determine the initial and continuing applicability of the incidental mining exemption to a particular mining operation. Response is required to obtain and maintain the incidental mining exemption in accordance with section 444.815.6(3) of the Surface Coal Mining Law; and

B. Public reporting burden for this collection of information is estimated to average one (1) hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Director, Land Reclamation Program, P.O. Box 176, Jefferson City, MO 65102.

3. Application requirements and procedures shall be completed as described in the following:

A. New operations.

(I) Any person who plans to commence or continue coal extraction after November 30, 1990, in reliance on the incidental mining exemption, shall file a complete application for exemption with the regulatory authority for each mining area.

(II) Following incorporation of an exemption application approval process into a regulatory program, a person may not commence coal extraction based upon the exemption until the regulatory authority approves the application, except as provided in part (2)(C)3.E.(III) of this rule;

B. Existing operations. Any person who has commenced coal extraction at a mining area in reliance upon the incidental mining exemption prior to November 30, 1990 may continue mining operations for sixty (60) days after (January 29, 1991) the effective date (November 30, 1990). Coal extraction may not continue after the sixty (60)-day period unless that person files an administratively complete application for exemption with the regulatory authority. If an administratively complete application is filed within sixty (60) days, the person may continue extracting coal in reliance on the exemption beyond the sixty (60)-day period until the regulatory authority makes an administrative decision on the application;

C. Additional information. The regulatory authority shall notify the applicant if the application for exemption is incomplete and may at any time require submittal of additional information;

D. Public comment period. Following publication of the newspaper notice required by subparagraph (2)(C)4.I. of this rule, the regulatory authority shall provide a period of no less than thirty (30) days during which time any person having an interest which is or may be adversely affected by a decision on the application may submit written comments or objections;

E. Exemption determination.

(I) No later than ninety (90) days after filing of an administratively complete application, the regulatory authority shall make a written determination whether, and under what conditions, the persons claiming the exemption are exempt under this part and shall notify the applicant and persons submitting comments on the application of the determination and the basis for the determination.

(II) The determination of exemption shall be based upon information contained in the application and any other information available to the regulatory authority at that time.

(III) If the regulatory authority fails to provide an applicant with the determination as specified in part (2)(C)3.E.(I) of this rule, an applicant who has not begun may commence coal extraction pending a determination on the application unless the regulatory authority issues an interim finding, together with reasons for this finding, that the applicant may not begin coal extraction; and

F. Administrative review.

(I) Any adversely affected person may request administrative review of a determination under subparagraph (2)(C)3.E. of this rule within thirty (30) days of the notification of the determination in accordance with procedures established under Chapter 536, RSMo.

(II) A petition for administrative review filed under Chapter 536, RSMo shall not suspend the effect of a determination under subparagraph (2)(C)3.E. of this rule.

4. An application for exemption, at a minimum, shall include:

A. The name and address of the applicant;

B. A list of the minerals sought to be extracted;

C. Estimates of annual production of coal and the other minerals within each mining area over the anticipated life of the mining operation;

D. Estimated annual revenues to be derived from bona fide sales of coal and other minerals to be extracted within the mining area;

E. Where coal or the other minerals are to be used rather than sold, estimated annual fair market values at the time of projected use of the coal and other minerals to be extracted from the mining area;

F. The basis for all annual production, revenue and fair market value estimates;

G. A description, including county, township, if any, and boundaries of the land, of sufficient certainty that the mining areas may be located and distinguished from other mining areas;

H. An estimate to the nearest acre of the number of acres that will compose the mining area over the anticipated life of the mining operation;

I. Evidence of publication, in a newspaper of general circulation in the county of the mining area, of a public notice that an application for exemption has been filed with the regulatory

authority (the public notice must identify the persons claiming the exemption and must contain a description of the proposed operation and its locality that is sufficient for interested persons to identify the operation);

J. The representative stratigraphic cross-section(s) based on test borings or other information identifying and showing the relative position, approximate thickness and density of the coal and each other mineral to be extracted for commercial use or sale and the relative position and thickness of any material, not classified as other minerals, that also will be extracted during the conduct of mining activities;

K. A map of appropriate scale which clearly identifies the mining area;

L. A general description of mining and mineral processing activities for the mining area;

M. A summary of sales commitments and agreements for future delivery, if any, which the applicant has received for other minerals to be extracted from the mining area, or a description of potential markets for the minerals;

N. If the other minerals are to be commercially used by the applicant, a description specifying the use;

O. For operations having extracted coal or other minerals prior to filing an application for exemption, in addition to the information required, the following information also must be submitted:

(I) Any relevant documents the operator has received from the regulatory authority documenting its exemption from the requirements of the surface coal mining law;

(II) The cumulative production of the coal and other minerals from the mining area; and

(III) Estimated tonnages of stockpiled coal and other minerals; and

P. Any other information pertinent to the qualification of the operation as exempt.

5. Public availability of information is defined and shall be handled as described in the following:

A. Except as provided in subparagraph (2)(C)5.B. of this rule, all information submitted to the regulatory authority under subsection (2)(C) shall be made available immediately for public inspection and copying at the local offices of the regulatory authority having jurisdiction over the mining operations claiming exemption until at least three (3) years after expiration of the period during which the subject mining area is active;

B. The regulatory authority may keep information submitted to the regulatory authority under this part confidential if the person submitting it requests in writing, at the time of submission, that it be kept confidential and the information concerns trade secrets or is privileged commercial or financial information of the persons intending to conduct operations under this rule; and

C. Information requested to be held as confidential under subparagraph (2)(C)5.B. of this rule shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

6. Requirements for exemption.

A. Activities are exempt from the requirements of the surface coal mining law if all of the following are satisfied:

(I) The cumulative production of coal extracted from the mining area determined annually as described in this rule does not exceed sixteen and two-thirds percent (16 2/3%) of the total cumulative production of coal and other minerals removed during that period for purposes of a bona fide sale or reasonable commercial use;

(II) Coal is produced from a geological stratum lying above or immediately below the deepest stratum from which other minerals are extracted for purposes of a bona fide sale or reasonable commercial use; and

(III) The cumulative revenue derived from the coal extracted from the mining area determined annually shall not exceed fifty percent (50%) of the total cumulative revenue derived from the coal and other minerals removed for purposes of a bona fide sale or reasonable commercial use. If the coal extracted or the minerals removed are used by the operator or transferred to a related entity for use instead of being sold in a bona fide sale, then the fair market value of the coal or other minerals shall be calculated at the time of use or transfer and shall be considered rather than revenue.

B. Persons seeking or that have obtained an exemption from the requirements of the surface coal mining law shall comply with the following:

(I) Each other mineral upon which an exemption under this rule is based must be a commercially valuable mineral for which a market exists or which is mined in bona fide anticipation that a market will exist for the mineral in the reasonably foreseeable future, not to exceed twelve (12) months from the end of the current period for which cumulative production is calculated. A legally binding agreement for the future sale of other minerals is sufficient to demonstrate this standard; and

(II) If either coal or other minerals are transferred or sold by the operator to a related entity for its use or sale, the transaction must be made for legitimate business purposes.

7. A person conducting activities covered by this rule shall—

A. Maintain on-site or at other locations available to the commission and its representatives and the secretary information necessary to verify the exemption including, but not limited to, commercial use and sales information, extraction tonnages and a copy of the exemption application and exemption approved by the regulatory authority;

B. Notify the regulatory authority upon the completion of the mining operation or permanent cessation of all coal extraction activities; and

C. Conduct operations in accordance with the approved application or when authorized to extract coal under subparagraph (2)(C)3.B. or part (2)(C)3.E.(III) of this rule prior to submittal or approval of an exemption application in accordance with the standards of this rule.

8. Authorized representatives of the commission and the secretary shall have the right to conduct inspections of operations claiming exemption under this subsection.

A. Each authorized representative of the commission and the secretary conducting an inspection under subsection (2)(C)—

(I) Shall have a right of entry to, upon and through any mining and reclamation operations without advance notice or a search warrant, upon presentation of appropriate credentials;

(II) At reasonable times and without delay, may have access to and copy any records relevant to the exemption; and

(III) Shall have a right to gather physical and photographic evidence to document conditions, practices or violations at a site.

B. No search warrant shall be required with respect to any activity under subparagraphs (2)(C)7.D. and E. of this rule, except that a search warrant may be required for entry into a building.

9. Stockpiling of minerals shall be conducted as described in the following:

A. Coal. Coal extracted and stockpiled may be excluded from the calculation of cumulative production until the time of its sale, transfer to a related entity or use—

(I) Up to an amount equaling a twelve (12)-month supply of the coal required for future sale, transfer or use as calculated, based upon the average annual sales, transfer and use from the mining area over the two (2) preceding years; or

(II) For a mining area where coal has been extracted for a period of fewer than two (2) years, up to an amount that would represent a twelve (12)-month supply of the coal required for future sales, transfer or use as calculated based on the average amount of coal sold, transferred or used each month; and

B. Other minerals.

(I) The commission shall disallow all or part of an operator's tonnages of stockpiled other minerals for purposes of meeting the requirements of this rule if the operator fails to maintain adequate and verifiable records of the mining area of origin, the disposition of stockpiles or if the disposition of the stockpiles indicates the lack of commercial use or market for the minerals.

(II) The commission may only allow an operator to utilize tonnages of stockpiled other minerals for purposes of meeting the requirements of this rule if—

(a) The stockpiling is necessary to meet market conditions or is consistent with generally accepted industry practices; and

(b) Except as provided in part (2)(C)9.B.(III) of this rule, the stockpiled other minerals do not exceed a twelve (12)-month supply of the mineral required for future sales as approved by the regulatory authority on the basis of the exemption application.

(III) The commission may allow an operator to utilize tonnages of stockpiled other minerals beyond the twelve (12)-month limit established in part (2)(C)9.B.(II) of this rule if the operator can demonstrate to the regulatory authority's satisfaction that the additional tonnage is required to meet future business obligations of the operator, as may be demonstrated by a legally binding agreement for future delivery of the minerals.

(IV) The commission may periodically revise the other mineral stockpile tonnage limits in accordance with the criteria established by parts (2)(C)9.B.(II) and (III) of this rule, based on additional information available to the commission.

10. Revocation and enforcement shall be conducted as described in the following:

A. Commission responsibility. The commission shall conduct an annual compliance review of the mining area, utilizing the annual report submitted pursuant to paragraph (2)(C)11. of this rule, an on-site inspection and any other information available to the commission;

B. If the commission has reason to believe that a specific mining area was not exempt under the provisions of this rule or counterpart provisions of the state regulatory program at the end of the previous reporting period, is not exempt, or will be unable to satisfy the exemption criteria at the end of the current reporting period, the regulatory authority shall notify the operator that the exemption may be revoked and the reason(s) for relocation. The exemption will be revoked unless the operator demonstrates to the regulatory authority within thirty (30) days that the mining area in question should continue to be exempt;

C. If the commission finds that an operator has not demonstrated that activities conducted in the mining area qualify for the exemption, the commission shall revoke the exemption and immediately notify the operator and intervenors. If a decision is made not to revoke an exemption, the commission shall immediately notify the operator and intervenors;

D. Any adversely affected person may request administrative review of a decision whether to revoke an exemption within thirty (30) days of the notification of that decision in accordance with procedures established under Chapter 536, RSMo;

E. A petition for administrative review filed under Chapter 536, RSMo shall not suspend the affect of a decision whether to revoke an exemption; and

F. Direct enforcement.

(I) An operator mining in accordance with the terms of an approved exemption shall not be cited for violations of the *[commission]* **regulatory program** which occurred prior to the revocation of the exemption.

(II) An operator who does not conduct activities in accordance with the terms of an approved exemption, and knows or should know the activities are not in accordance with the approved exemption shall be subject to direct enforcement action for violations of the *[commission]* **regulatory program** which occur during the period of these activities.

(III) Upon revocation of an exemption or denial of an exemption application, an operator shall stop conducting surface coal mining operations until a permit is obtained and shall comply with the reclamation standards of the *[commission]* **regulatory program** with regard to conditions, areas and activities existing at the time of revocation or denial.

11. Reporting requirements.

A. Following approval by the commission of an exemption for a mining area, the person receiving the exemption, for each mining area, shall file a written report annually with the commission containing the information specified in subparagraph (2)(C)11.B. of this rule.

(I) The report shall be filed no later than thirty (30) days after the end of the twelve (12)-month period as determined in accordance with the definition of cumulative measurement period in paragraph (2)(C)1. of this rule.

(II) The information in the report shall cover—

(a) Annual production of coal and other minerals and annual revenue derived from coal and other minerals during the preceding twelve (12)-month period; and

(b) The cumulative production of coal and other minerals and the cumulative revenue derived from coal and other minerals.

B. For each period and mining area covered by the report, the report shall specify—

(I) The number of tons of extracted coal sold in bona fide sales and total revenue derived from the sales;

(II) The number of tons of coal extracted and used or transferred by the operator or related entity and the estimated total fair market value of the coal;

(III) The number of tons of coal stockpiled;

(IV) The number of tons of other commercially valuable minerals extracted and sold in bona fide sale and total revenue derived from the sales;

(V) The number of tons of other commercially valuable minerals extracted and used or transferred by the operator or related entity and the estimated total fair market value of the minerals; and

(VI) The number of tons of other commercially valuable minerals removed and stockpiled by the operator; *[and]*

(D) Coal-Related Structures.

1. Each structure used in connection with or to facilitate a coal exploration or surface coal mining and reclamation operation shall comply with the performance standards and the design requirements of 10 CSR 40-3 or 10 CSR 40-4,
except that—

A. An existing structure which meets the performance standards of 10 CSR 40-3 or 10 CSR 40-4 but does not meet the design requirements of 10 CSR 40-3 or 10 CSR 40-4 may be exempt from meeting those design requirements but only as approved in the permit and plan after obtaining the information required by 10 CSR 40-6.050(3), 10 CSR 40-6.120(3) and after making the findings required in 10 CSR 40-6.070(9);

B. If the performance standards of 10 CSR 40-2 are at least as stringent as the comparable performance standards of 10 CSR 40-3 or 10 CSR 40-4, an existing structure which meets the performance standards of 10 CSR 40-2 may be exempt from meeting the design requirements of 10 CSR 40-3 or 10 CSR 40-4 but only as approved in the permit and plan process after obtaining the information required by 10 CSR 40-6.050(3), 10 CSR 40-6.120(3) and after making the findings required in 10 CSR 40-6.070(9);

C. An existing structure which meets a performance standard of 10 CSR 40-2 which is less stringent than the comparable performance standards of 10 CSR 40-3 or 10 CSR 40-4 or which does not meet a performance standard of 10 CSR 40-3 or 10 CSR 40-4 for which there was no equivalent performance standard in 10

CSR 40-2 shall be modified or reconstructed to meet the design standards of 10 CSR 40-3 or 10 CSR 40-4 pursuant to a compliance plan approved in the permit and plan as required in 10 CSR 40-6.050(3), 10 CSR 40-6.120(3) and according to the findings required by 10 CSR 40-6.070(9); and

D. An existing structure which does not meet the performance standards of 10 CSR 40-2, and which the applicant proposes to use in connection with or to facilitate the coal exploration or surface coal mining and reclamation operation shall be modified or reconstructed to meet the design standards of 10 CSR 40-3 or 10 CSR 40-4 prior to issuance of the permit.

2. The exemptions provided in 10 CSR 40-8.070(2)(D) shall not apply to the requirements—

A. For existing and new waste piles used either temporarily or permanently as dams or embankments; and

B. To restore the approximate original contour of the land*[.]***;**

(E) The commission or director shall make a written determination whether the operation is exempt under this section within sixty (60) days of the receipt of the exemption request. The commission or director shall provide public notice in a newspaper of general circulation in the general vicinity of the proposed operations. Prior to the time a determination is made, a person may submit, and the commission or director shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who, in good faith, has made a complete and accurate request for an exemption and relied upon the determination, shall not be cited for violations which occurred prior to the date of the reversal*[.]***;**

(F) The commission may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or portion thereof, when:

1. The commission or director determines in writing that under the initial program, all requirements imposed under 10 CSR 40-2, 10 CSR 40-3, 10 CSR 40-4 and 10 CSR 40-8 have been successfully completed; or

2. The commission or director determines in writing that all requirements imposed under 10 CSR 40 chapters 3 through 8 have been successfully completed; and

3. The operator has properly applied for, and obtained release of Phase III reclamation liability in accordance with 10 CSR 40-7.021(3) through (5); and

(G) Following a termination of jurisdiction under subsection (2)(F) of this rule, the commission shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the determination made under subsection (2)(F) of this rule, or the release of Phase III reclamation liability referred to under paragraph ((2)(F)2. of this rule was based upon fraud, collusion, or misrepresentation of a material fact.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Aug. 1, 1980, effective Dec. 11, 1980. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 40—Land Reclamation Commission
Chapter 9—Abandoned Mine Reclamation Fund; Abandoned Mine Reclamation and Restoration

PROPOSED AMENDMENT

10 CSR 40-9.020 Reclamation—General Requirements The commission is amending subsection (1)(D).

PURPOSE: The purpose for this amendment is to make the rule at least as effective as its federal counterparts and reflect recent changes in the federal rules.

(1) Land and water are eligible for reclamation activities if—

(C) There is no continuing responsibility for reclamation by the operator, permittee or agent of the permittee under statutes of the state or federal government, or the state as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the fund will be sought under 30 CFR 886 and 30 CFR 888; *[and]*

(D) Notwithstanding subsections (1)(A)–(C) of this rule, coal lands and waters damaged and abandoned after August 3, 1977, by coal mining processes are also eligible for reclamation activities if—

1. They were mined for coal or affected by coal mining processes; and

2. The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977 and ending on or before November 21, 1980, and that funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

3. The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition during the period beginning on August 4, 1977 and ending on or before November 5, 1990, and that the surety of such mining operator became insolvent during such period, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site; and

4. The **commission finds in writing that the** site meets the **eligibility requirements of this section and the** priority objectives stated in subsections (4)(A) and (B) of this rule **and that the reclamation priority of the site is the same or more urgent than the reclamation priority for other lands and waters eligible pursuant to this section**. Priority will be given to those sites

which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community; *[and]*

(E) Monies available from sources outside the fund or which are ultimately recovered from responsible parties involving lands eligible pursuant to subsection (1)(D) of this rule, shall either be used to offset the cost of the reclamation or transferred to the fund if not required for further reclamation activities at the permitted site*[.]*; **and**

(F) If reclamation of a site covered by an interim or permanent program permit is carried out under the state reclamation program, the permittee of the site shall reimburse the abandoned mine land reclamation fund for the cost of the reclamation that is in excess of any bond forfeited to ensure reclamation. In performing reclamation under subsection (1)(D) of this rule, the commission shall not be held liable for any violations of any performance standards or reclamation requirements specified in Chapter 444, RSMo 1994 nor shall a reclamation activity undertaken on such lands or waters be held to any standards set forth in Chapter 444, RSMo 1994.

*AUTHORITY: section 444.810, RSMo [1994] **Supp. 1999**. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000.*

PUBLIC COST: The state of Missouri has an approved regulatory program granted by the Office of Surface Mining Reclamation and Enforcement—Department of the Interior which is administered by Missouri's Land Reclamation Commission. As a primacy state, Missouri's Land Reclamation Commission is required to promulgate rules which are as stringent as the Surface Mining Control and Reclamation Act of 1977 and corresponding federal rules at 30 CFR parts 700 through 899. The changes will not cost state agencies or political subdivisions more than $500 in the aggregate. Should any future changes result in costs of greater than $500, a revised fiscal note will be filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities greater than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Environmental Quality, Land Reclamation Program, Larry Coen, Staff Director, P.O. Box 176, Jefferson City, MO 65102, (573) 751-4041. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 2—Definitions

PROPOSED AMENDMENT

10 CSR 100-2.010 Definitions. The board is amending the Purpose.

PURPOSE: This amendment corrects the Purpose statement.

*PURPOSE: This rule defines certain terms used in this [chapter] **division**.*

*AUTHORITY: section 319.129, RSMo, [Supp. 1998] **Supp. 1999**. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed March 31, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Executive Director of the Petroleum Storage Tank Insurance Fund, P.O. Box 836, Jefferson City, MO 65102. To be accepted, written comments must be postmarked by midnight on May 31, 2000. Faxed correspondence will be accepted; E-mail correspondence will not be accepted. No public hearing is scheduled.

Please direct all inquiries to the Executive Director of the Petroleum Storage Tank Insurance Fund Board at (573) 522-2352.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 5—Claims

PROPOSED AMENDMENT

10 CSR 100-5.010 Claims for Cleanup Costs. The board is amending section (4).

PURPOSE: This amendment adds on additional category of sites which may receive benefits from the Petroleum Storage Tank Insurance Fund. It also makes two technical corrections to the previously published rule.

(4) Fund participants or beneficiaries may receive monies from the fund for the following sites:

(C) A site where a release occurred as a result of the operation of one (1) or more petroleum storage tanks, cleanup began or will begin after August 28, 1989, and the tank(s) from which the release occurred was/were taken out of use prior to December 31, 1997, provided such site was documented by or reported to the Department of Natural Resources prior to December 31, 1997.

1. For the purposes of this subsection, evidence of a site being documented by or reported to the Department of Natural Resources may include, but is not limited to:

A. Completion of a tank registration form;

B. Completion of the notification form circulated by the Department of Natural Resources in 1995–1997;

C. A letter, sent via U.S. mail or overnight delivery service, identifying the location of the site and indicating the existence or prior existence of tanks on the site;

D. A written message transmitted via facsimile, identifying the location of the site and indicating the existence or prior existence of tanks on the site;

E. A Site Assessment Report or similar report, submitted to the department, identifying the site as one where tanks were previously operated; or

F. Any other similar documentation which is determined by the board to provide reasonable evidence of such fact.

2. Costs incurred prior to August 28, 1995, are not eligible.

3. Fund beneficiaries may be required by the board to provide evidence that the site was documented by or reported to the Department of Natural Resources prior to December 31, 1997**.***[; and]*

4. Fund beneficiaries must get cleanup costs approved in advance, as described in this rule;

(D) A site described in subsection (4)(B) or (4)(C), except the release occurred and was being remediated prior to August 28, 1989.

1. Fund participants **and beneficiaries** must get cleanup costs approved in advance, as described in this rule.

2. Costs incurred prior to August 28, 1996 are not eligible*[.]*; **and**

(E) A site where underground storage tanks which contained petroleum were taken out of use prior to December 31, 1985, and the current owner purchased such site before December 31, 1985, provided such site is reported to the fund on or before June 30, 2000. For the purposes of this subsection, current owner shall mean the person who owns a site at the time it is reported to the Petroleum Storage Tank Insurance Fund.

1. Fund beneficiaries must get cleanup costs approved in advance, as described in this rule.

2. Costs incurred prior to August 28, 1999, are not eligible.

*AUTHORITY: sections 319.129, 319.131 and 319.132, RSMo [Supp. 1998] **Supp. 1999**. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed March 31, 2000.*

PUBLIC COST: This proposed amendment is estimated to cost public entities $473,700 in fiscal year 2000 and $1.9 million in the aggregate for implementation of the new rule. A detailed fiscal note has been filed with the secretary of state and is published with this proposed amendment.

PRIVATE COST: This proposed amendment is estimated to cost private entities $200,657 in fiscal year 2000 and $806,800 in the aggregate for implementation of the new rule. A detailed fiscal note has been filed with the secretary of state and is published with this proposed amendment.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Executive Director of the Petroleum Storage Tank Insurance Fund, P.O. Box 836, Jefferson City, Missouri 65102. To be accepted, written comments must be postmarked by midnight on May 31, 2000. Faxed correspondence will be accepted; E-mail correspondence will not be accepted. No public hearing is scheduled.

Please direct all inquiries to the Executive Director of the Petroleum Storage Tank Insurance Fund Board at (573) 522-2352.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources

Division: Petroleum Storage Tank Insurance Fund Board of Trustees

Chapter: Claims for Cleanup Costs

Type of Rulemaking: Proposed Rule Amendment

Rule Number and Name: 10 CSR 100-5.010 Claims for Cleanup Costs

II. SUMMARY OF FISCAL IMPACT: The Petroleum Storage Tank Insurance Fund is impacted by this amendment, because the Board expects to make payments for cleanup of additional sites as a result of the amendment. The amendment is necessary as a result of legislative amendment to the statute governing the Fund, CCS SCS HCS HB603, enacted in 1999.

Affected Agency or Political Subdivision	Estimated Cost of Compliance (FY 2000)	Aggregate Cost for the life of the rule through Dec 2003
Petroleum Storage Tank Insurance Board	$473,700	$1.9 million

III. WORKSHEET

1. The amount of money projected to be paid for cleanup as a result of these additional sites being eligible for Fund benefits is as follows:

   FY00 $450,000
   FY01 $450,000
   FY02 $450,000
   FY03 $250,000
   FY04 $200,000

2. The Petroleum Storage Insurance Fund has contracted with a third party to process claims. The contract provisions call for an hourly fee of $75 for professional services, $30 per hour for clerical or quasi-professional services. It is estimated that 15 professional hours and 2 clerical hours will be required to process each additional claim allowed by HB603 and this rule amendment.

   Cost per claim = (15 hrs x $75/hr) + (2 hrs x $30/hr) = $1185

   FY00: 20 claims x $1185 = $23,700
   FY01: 20 claims x $1185 = $23,700
   FY02: 20 claims x $1185 = $23,700
   FY03: 10 claims x $1185 = $11,850
   FY04: 10 claims x $1185 = $11,850

IV. ASSUMPTIONS

1. This rule, 10 CSR 100-5.010, becomes effective September 30, 2000.

2. Because the duration of this rule can be estimated to coincide with the sunset provisions of the Fund, an aggregate cost for the duration of the rule is provided.

3. Fiscal year 2000 dollars are used to estimate the costs, and, since inflation cannot be accurately predicted, no adjustments are made for inflation.

4. The Board's costs for FY04 are assumed to be one-half a fiscal year, or six months, to December 2003.

5. Estimates assume a constant regulatory context which requires no reporting or standards beyond those currently required.

6. Estimates assume that there will be no new or sudden changes in technology which would influence costs.

7. Projected claim payments are based on the Fund's historical experience with claim payments; current data on properties where the owner/operator has made a claim, but has not yet completed cleanup; and notices already received by the Fund from persons who wish to make their properties eligible for Fund benefits under HB603.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Department of Natural Resources

Division: Petroleum Storage Tank Insurance Fund Board of Trustees

Chapter: Claims for Cleanup Costs

Type of Rulemaking: Proposed Rule Amendment

Rule Number and Name: 10 CSR 100-5.010 – Claims for Cleanup Costs

II. SUMMARY OF FISCAL IMPACT: Private entities who are Fund beneficiaries and who may file a claim for benefits as a result of this amendment will incur some cost for the time and paperwork involved in filing a claim, and will incur a cost for the first $10,000 in cleanup expenses, which the Fund is prevented by law from paying.

EXPENDITURE OF MONEY OR REDUCTION IN INCOME-

Table 1. Costs of 10 CSR 100-5.010 Claims for Cleanup Costs

Classification by types of the business entities which would likely be affected	Number in Class	Cost of Compliance FY2000	Aggregate Annualized Cost
Property Owners who may choose to file a claim	80	$200,657	$806,800

III. WORKSHEET

1. The number of claims projected to be filed as a result of this amendment is based on the Fund's historical experience and the number of persons who have already given notice of their desire to make their property eligible.

2. It is estimated that a claimant will spend approximately one hour completing a claim form and compiling invoices to submit to the Fund for payment. It is assumed that the average salary for an individual filing a claim is $24,000, and a multiplier of 2.5 is used to estimate the costs of overhead, profits, etc. associated with such an employee. It is assumed there are 2080 working hours per year.

   (24,000 x 2.5)/2080 = $28.85 per hour

Paper and postage costs are estimated at $4.00 per claim. This results in a cost for time and materials of $32.85 per claim.

FY00:	20 x $32.85 = $ 657
Aggregate:	80 x $32.85 = $6800

3. The cost of the deductible is estimated as follows:

FY00:	20 x $10,000 = $200,000
Aggregate:	80 x $10,000 = $800,000

IV. ASSUMPTIONS:

1. This amendment to 10 CSR 100-5.010 becomes effective September 30, 2000.

2. Because the duration of this rule can be estimated to coincide with the sunset provisions of the Fund, an aggregate cost for the duration of the rule is provided.

3. Fiscal year 2000 dollars are used to estimate the costs, and, since inflation cannot be accurately predicted, no adjustments are made for inflation.

4. Estimates assume a constant regulatory and legislative context.

5. It is assumed that the entire deductible of $10,000 will be incurred by the entity filing the claim in the same fiscal year that the claim is filed.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 1—Organization and Administration

PROPOSED AMENDMENT

11 CSR 45-1.090 Definitions. The commission proposes to amend subsection (20)(G).

PURPOSE: This amendment gives the commission the discretion to approve various representations of value as tokens for use in gambling games.

(20) Definitions beginning with T—

(G) Token—A metal object *[representative]* **or other representation** of value*[,]* **that is authorized by statute and/or approved by the commission, which is** redeemable for cash only at the issuing riverboat gaming operation, and issued and sold by a holder of a Class A license for use in electronic gaming devices; and

AUTHORITY: sections 313.004, [and] 313.805 ***and 313.817,*** *RSMo 1994. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan 31, 1994. For intervening history, please consult the* ***Code of State of Regulations****. Amended: Filed March 30, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, P.O. Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for 10:00 a.m. on June 8, 2000, at the Missouri Gaming Commission, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED RULE

12 CSR 10-24.450 Staggering Expiration Dates of Driver/Nondriver Licenses

PURPOSE: This rule outlines the procedures for staggering the expiration date of driver/nondriver licenses being issued or renewed over a six (6)-year period as outlined in section 302.177, RSMo.

(1) From July 1, 2000 through June 30, 2003, the director of revenue shall issue driver licenses with expiration dates as outlined below to applicants that are at least twenty-one (21) years of age and less than seventy (70) years of age.

(A) All new driver license transactions completed shall produce a driver license expiring on the applicant's date of birth in the sixth year after issuance.

(B) All mail-in transactions completed shall produce a driver license expiring on the applicant's date of birth in the sixth year after issuance.

(C) All renewal driver license transactions shall be staggered based on the applicant's year of birth. All applicants born in an odd-numbered year shall receive a driver license expiring on the applicant's date of birth in the third year after issuance. All applicants born in an even-numbered year shall receive a driver license expiring on the applicant's date of birth in the sixth year after issuance.

(2) From July 1, 2000 through June 30, 2003, the director of revenue shall issue nondriver licenses with expiration dates as outlined below to applicants that are less than seventy (70) years of age.

(A) All new nondriver license transactions completed shall produce a nondriver license expiring on the applicant's date of birth in the sixth year after issuance.

(B) All renewal nondriver license transactions shall be staggered based on the applicant's year of birth. All applicants born in an odd-numbered year shall receive a nondriver license expiring on the applicant's date of birth in the third year after issuance. All applicants born in an even-numbered year shall receive a nondriver license expiring on the applicant's date of birth in the sixth year after issuance.

(3) The fees for driver/nondriver license renewals that are staggered from July 1, 2000 through June 30, 2003, are as follows:

(A) Class A, B or C three (3)-year renewal is twenty dollars ($20);

(B) Class A, B or C six (6)-year renewal is forty dollars ($40);

(C) Class E three (3)-year renewal is fifteen dollars ($15);

(D) Class E six (6)-year renewal is thirty dollars ($30);

(E) Class F or M three (3)-year renewal is seven dollars and fifty cents ($7.50);

(F) Class F or M six (6)-year renewal is fifteen dollars ($15);

(G) Nondriver license three (3)-year renewal is three dollars ($3); and

(H) Nondriver license six (6)-year renewal is six dollars ($6).

AUTHORITY: section 302.177, RSMo Supp. 1999. Original rule filed March 27, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED RULE

12 CSR 10-24.452 Highway Sign Recognition Test

PURPOSE: This rule establishes the passing score for the highway sign recognition test as outlined in section 302.173, RSMo.

(1) The director shall require any person applying for a new or renewal driver license to submit to an examination that tests his/her ability to understand highway signs regulating, warning or directing traffic.

(2) The person shall be presented with six (6) highway signs and must successfully identify four (4) out of the six (6) signs to pass the examination.

AUTHORITY: section 302.173, RSMo Supp. 1999. Original rule filed March 27, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 30—Child Support Enforcement
Chapter 8—Cooperation Requirement

PROPOSED RULE

13 CSR 30-8.010 Cooperation Requirement

P*URPOSE. This rule sets forth the requirement for individuals who are applicants for or recipients of public assistance benefits (applicants/recipients) to cooperate with the Division of Child Support Enforcement in its efforts to establish paternity and establish, modify and enforce child support orders.*

(1) Definition. For the purposes of this rule the following definitions are applicable:

(A) Division means the Division of Child Support Enforcement;

(B) Good cause means the circumstances under which cooperation is not in the best interest of the child or custodian who has applied for or is receiving public assistance benefits;

(C) Cooperation means the duty of applicants/recipients to provide within their ability to do so, all requested information and assistance to the division to enable it to establish paternity and establish, modify, and enforce child support and medical support orders;

(D) Public assistance means any benefits from a program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act or the Food Stamp Act;

(E) Applicant/recipient is a person who has applied for or is receiving public assistance;

(F) NCP means noncustodial parent;

(G) AF means alleged father.

(2) Cooperation Requirements. If it is determined by the division that an applicant/recipient is not cooperating in establishing paternity or establishing a medical support order with respect to a child, and the applicant/recipient does not qualify for a good cause or other exceptions established by the division, the division shall notify the Division of Family Services, who shall impose sanctions. Cooperation requirements include, but are not limited to providing to the division the following information pertaining to the noncustodial parent (NCP) or alleged father (AF) and assistance to establish paternity and establish, modify, and enforce support orders:

(A) Information relating to the NCP or AF includes, but is not limited to the following:

1.The name;

2. Date of birth or approximate age;

3. Social Security number;

4. Known address or last known address;

5. Past or present employer and usual occupation;

6. Name of high school, college, university, vocational school/expected graduation date;

7. Names of friends or relatives who may have information;

8. Names of clubs or union memberships;

9. Drivers license information;

10. Physical description;

11. Make, model or license plate of any vehicles owned;

12. Any information regarding any other property owned; and

13. Any other pertinent information relevant to locating the NCP/AF.

(B) Assistance required from the applicant/recipient—

1. Providing financial and income information, education and work history of the applicant/recipient;

2. Providing and updating the street and mailing address of the applicant/recipient;

3. Appearing at and cooperating with the division, or prosecuting attorney's offices and supplying written documentary evidence;

4. Appearing as a witness at judicial or administrative hearings;

5. Completing a notarized affidavit, attesting to a lack of relevant requested information regarding the NCP or AF; and

6. All other assistance requested by the division to establish paternity including, but not limited to, keeping appointments for genetic testing, participating in genetic testing.

(3) Good Cause for Noncooperation.

(A) An applicant/recipient may refuse to cooperate with the division based upon good cause. Each applicant/recipient will be informed by the division or Division of Family Services caseworker about the duty to cooperate and the right to claim good cause. Each applicant/recipient will also be provided information regarding good cause, including its definition and how good cause can be claimed and what evidence is needed to support such a claim.

(B) If the applicant/recipient claims good cause to the Division of Family Services caseworker, the Division of Family Services may make the good cause determination in compliance with this regulation.

(C) The applicant/recipient shall be provided a written copy of the requirement to cooperate and the right to claim good cause for refusal to cooperate with the division. It is the responsibility of the applicant/recipient to specify the circumstances under which good cause is claimed and provide corroborative evidence. Good cause for refusing to cooperate is deemed to exist in one or more of the following circumstances, but may not be limited to these circumstances:

1. Physical or emotional harm to a child;

2. Physical or emotional harm to the applicant/recipient of sufficient severity that it would reduce the applicant/recipient's capacity to adequately care for a child;

3. Physical or emotional harm to the applicant/recipient as a result of domestic violence;

4. The child for whom support is sought was conceived as a result of incest or rape; or

5. Legal proceeding for the adoption of the child is pending before a court.

(4) The documentation will be submitted to the caseworker who will review it to determine if there is sufficient evidence to establish a claim of good cause. A claim of good cause may be verified by one of the following:

(A) Birth certificate or medical or law enforcement records that indicate that a child was conceived as the result of incest or forcible rape. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception is the result of rape;

(B) Court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(C) Court, medical, criminal, child protective services, social service, psychological, or law enforcement records that indicate the NCP/AF might inflict physical or emotional harm on the child or applicant/recipient;

(D) Medical records regarding the emotional health history and present emotional health status of the applicant/recipient or the child for whom support would be sought that indicate emotional harm would result from cooperation, or written statements from a mental health professional indicating such results;

(E) A written statement from a public or licensed private social agency that the applicant/recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption; or

(F) When none of the items listed above is present or conclusive, a sworn statement from the applicant/recipient, and at least one other individual with knowledge of the circumstances that provide the basis for the claim of good cause may be submitted.

(5) Due Process Rights.

(A) Upon application, the applicant/recipient will be given in writing, notice of the cooperation requirements. These requirements will be explained along with what sanctions can be applied when the applicant/recipient fails to cooperate with the division. If the applicant/recipient claims good cause, he/she will have twenty (20) calendar days to provide evidence to support the claim of good cause. The twenty (20) days may be extended in case of difficulty in obtaining the evidence for a period of time not to exceed forty-five (45) days as determined by the caseworker.

(B) Review and Determination. If the applicant/recipient claims good cause, the division or Division of Family Services caseworker will review the information provided and make a recommendation as to whether or not good cause exists. The recommendation must—

1. Be in written form and contain the worker's recommendation, the basis for the recommendation, the documentation provided by the applicant/recipient; and

2. Be forwarded to the designated division or Division of Family Services personnel, who will make the final determination as to whether there is good cause for noncooperation.

(C) Notification of Final Determination. The applicant/recipient must be notified in writing of the findings and basis for determination. If there is a finding of good cause for noncooperation, the applicant/recipient will be given the opportunity to have child support services stopped or be continued. If no good cause is found, the applicant/recipient will be afforded an opportunity to cooperate, withdraw the request for assistance or terminate assistance. The notification must be made a part of either the division or Division of Family Services case record.

AUTHORITY: section 454.400.2(5), RSMo Supp. 1999. Original rule filed March 30, 2000.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions less than $500 in the aggregate.

PRIVATE COST: This proposed rule is not estimated to cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Child Support Enforcement, Lynn F. Fallen, 3418 Knipp Drive, Suite F, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.010 General Organization. The board is amending sections (1)–(5).

PURPOSE: This amendment clarifies the contacts, including their addresses, of individuals whom the public may contact to obtain information. This amendment also incorporates changes made by the General Assembly to sections 50.1000 to 50.1300, RSMo.

(1) Description of the Board. The board of directors consists of *[nine (9) persons]* **eleven directors, two (2) of whom shall be appointed by the governor, with the advice and consent of the Senate, but who shall have no beneficiary interest in the system. The remaining nine (9) directors shall be** elected by the membership of the County Employees' Retirement Fund (CERF). *[The board shall consist of]* **These remaining nine (9) directors shall include** an elected official or an employee of an elected official representing the elective county offices*[. None]***, but none** of these offices may have more than one (1) elected official or representative serving at a given time.

(2) Meetings of the Board. The board of directors of the County Employees' Retirement Fund, hereafter "board," shall hold regular **quarterly** meetings at a location to be designated by the board *[in February, May, August and November of each calendar year]* and special meetings at times as may be necessary on call of the chairman or by three (3) members acting jointly and notifying the chair, in writing, of their desire to meet, upon due and reasonable notice. In the event three (3) members act to request a meeting, their written notification to the chair may be served by either United States mail or facsimile transmission. The chairman shall publicize through appropriate channels the time and place of the meetings of the board. All meetings of the board of directors shall comply with Chapter 610, RSMo. Information concerning meetings or rules may be obtained by contacting *[Brydon, Swearengen & England P.C., 312 East Capitol Avenue, Jefferson City, MO 65101]* **the County Employees' Retirement Fund Administrative Office, P.O. Box 2271, Jefferson City, MO 65102**. Information concerning operations of the system may be obtained by writing or calling the CERF plan administrator. The contact person for the plan administrator is *[Terry Seboldt, Employee Benefits Officer]* **Sarah J. Maxwell, Executive Director**. *[Mr. Seboldt]* **Ms. Maxwell** may be reached by mail at *[P.O. Box 577, Columbia, MO 65205]* **P.O. Box 2271, Jefferson City, MO 65102,** or by telephone at *[1 (800) 357-8557]* **(573) 632-9203**.

(3) Election of Officers. The board of directors, at the **first** regular meeting *[in February]* of each year, or at a special meeting, shall elect a chairman *[and]***,** vice-chairman**, and secretary** to serve for a period of one (1) year commencing upon their election to office. The chairman shall preside at all meetings of the board; except that in the absence of the chairman, the vice-chairman shall preside. In the event of a vacancy in one (1) of the officers' positions, that vacancy will be filled at the next regular meeting by election.

(4) Quorum. A quorum required for a meeting of the board of directors shall consist of *[five (5)]* **six (6)** members. Each director shall be entitled to one (1) vote on any matter requiring a decision by the board and majority of concurring votes among the directors present shall be necessary for a decision.

(5) The custodian of records for the County Employees' Retirement Fund is its plan administrator. Anyone wishing to obtain information or make submissions or requests may do so by contacting *[Boone County National Bank]* **the County Employees' Retirement Fund**, Plan Administrator, *[P.O. Box 577, Columbia, MO 65205]* **P.O. Box 2271, Jefferson City, MO 65102,** or by calling *[1 (800) 357-8557]* **(573) 632-9203**.

*AUTHORITY: section 50.1032, RSMo Supp. [1997] **1999**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed March 22, 1996, effective Oct. 30, 1996. Amended: Filed Sept. 9, 1997, effective Feb. 28, 1998. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed March 17, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.020 Appeal Process. The board is amending sections (2) and (4).

PURPOSE: This amendment clarifies administrative procedures for handling appeals.

(2) Requests.

(A) The request for review must be stated in writing, addressed to the *[legal counsel of the board]* **plan administrator**. The request must state what decision the board is being asked to review, and what action the board is being asked to take.

(3) The review will be conducted at the next regularly scheduled meeting of the board of directors which is at least thirty (30) days after the request for review is received. The party requesting review (the appellant) will be notified in writing of the date the board will conduct the review. All reviews will be conducted in Jefferson City, Missouri.

(4) The plan administrator*[, in conjunction with legal counsel,]* will prepare background material for the board, which will include documentation necessary for the board to review the decision. The background material will be provided to the appellant at the same time that it is provided to the board. Any requirements of law prohibiting reproduction or distribution of material will be observed.

*AUTHORITY: section 50.1032, RSMo Supp. [1997] **1999**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 9, 1997, effective Feb. 28, 1998. Amended: Filed March 17, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 1—Organization and Operation of Board of Directors

PROPOSED AMENDMENT

16 CSR 50-1.030 Open Records Policy. The board is adding section (4).

PURPOSE: This amendment clarifies the procedure for determining costs for certain open records requests.

(4) Individuals requesting member records for purposes of seeking election to the board of directors shall be charged a reasonable cost established by a schedule promulgated by the board of directors to cover the administrative costs of providing such information.

*AUTHORITY: section 50.1032, RSMo Supp. [1996] **1999**. Original rule filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed March 17, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.010 Definitions. This rule expanded on definitions found in section 50.1000, RSMo.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to define terms in accordance with the new law and to add other defined terms in light of the new law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.010 Definitions

PURPOSE: This rule sets forth the defined terms necessary to describe the provisions of the Missouri County Employees' Retirement Fund.

(1) When used in these regulations or in sections 50.1000 to 50.1300, RSMo, the words and phrases defined hereinafter shall have the following meanings unless a different meaning is clearly required by the context of the plan:

(A) Accrued benefit means the amount that would be payable at normal retirement date, considering the participant's average final compensation, primary Social Security benefit, target replacement ratio, and creditable service at the date of termination. Notwithstanding the foregoing, a participant's accrued benefit under the plan shall not be less than his or her accrued benefit as of December 31, 1999, determined under the prior plan;

(B) Active member or active participant means an employee who does not currently have an election in effect to opt-out of the plan, who has not incurred a separation from service, and who otherwise meets the criteria necessary to participate in the plan;

(C) Actuarial equivalence means equality in value of the aggregate amounts expected to be received under different forms of payment. Such equality in value shall be based on assumptions as to the occurrence of future events. The future events to be taken into account are mortality for participants, mortality for a beneficiary, and an interest discount for the time value of money. For this plan, the actuarial assumptions are as follows:

1. Mortality: the 1983 Group Annuity Mortality Table, weighted sixty-six and two-thirds percent (66 2/3%) male and thirty-three and one-third percent (33 1/3%) female;

2. Interest discount assumption: eight percent (8%), compounded annually;

(D) Actuary means an individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242, or firm of actuaries, which has on its staff such an enrolled actuary, which enrolled actuary or firm of actuaries is selected by the board to provide actuarial services for the plan;

(E) Annuity means a form of payment under which monthly installments are made to a retired participant in accordance with the terms of this plan;

(F) Annuity starting date means:

1. The first day of the first period for which an amount is payable as an annuity;

2. In the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the participant to such benefit; or

3. In the case of a deferred annuity, the annuity starting date is the date for which the annuity payments are to commence, not the date that the deferred annuity is elected;

(G) Average final compensation means the monthly average of the two highest years of compensation received by the participant;

(H) Beneficiary means the person, persons, or legal entity entitled to receive benefits under this plan which become payable in the event of the participant's death;

(I) Board means the Board of Directors of the County Employees' Retirement Fund;

(J) Code means the *Internal Revenue Code* of 1986, as amended, and includes any regulations thereunder;

(K) Compensation means, for all periods on or after January 1, 2000, all salary and other compensation paid by an employer to an employee for personal services rendered as an employee as shown on the employee's Form W-2, plus amounts paid by an employer but excluded from W-2 compensation by reason of *Internal Revenue Code* sections 125, 402(g)(3), 414(h)(2), or 457, but not including travel and mileage reimbursement, and not including compensation in excess of the limit imposed by section 401(a)(17) of the Code. Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit. In the case of a participant who left the employer to join a uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994), and returns to the employ of an employer before his or her reemployment rights under the statute expire, compensation, with respect to the plan years in which the participant was in the uniformed service, shall mean the compensation the participant would have earned had he remained in the employ of the employer. The board has the discretionary authority to make a reasonable estimate of this amount. For periods before January 1, 2000, compensation shall be determined under the terms of the prior plan;

(L) Employee means any county elective or appointive officer or employee who is hired and fired by an employer and whose work and responsibilities are directed and controlled by the employer and who is compensated directly from county funds and whose position requires the actual performance of duties during not less than one thousand (1,000) hours per year, except county prosecuting attorneys covered pursuant to sections 56.800 to 56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri State Retirement System and county sheriffs covered pursuant to sections 57.949 to 57.997, RSMo; provided that individuals who receive some pay from a county but who are subject to hiring, supervision, promotion, or termination by an entity other than the employer, including but not limited to an extension council or the circuit court, are not employees of the employer for purposes of the plan;

(M) Employer means each county in the state, except any city not within a county and counties of the first classification with a charter form of government;

(N) The entry date of a full-time employee is the hire date unless the employee opted out of the prior plan. The entry date of a part-time employee shall be the first semiannual entry date (January 1 or July 1) after the part-time employee satisfies the one thousand (1,000) hour requirement during the calendar year;

(O) Former employee means a person who ceases to be an employee but who is entitled to a benefit from this plan;

(P) Full-time employee means an elective or appointive official or employee regularly employed by an employer who is under the direct control and supervision of the employer or an elected or appointed county official and who is subject to continued employ-

ment, promotion, salary review or termination by an employer or an elected or appointed county official and who is compensated directly from county funds and whose position requires the actual performance of duties during not less than one thousand (1,000) hours per calendar year, except county prosecuting attorneys covered under sections 56.800–56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri State Retirement System and county sheriffs covered under sections 57.949 to 57.997, RSMo, and employees who receive some compensation from an employer but who are subject to hiring, supervision, promotion or termination by an entity other than the employer such as an extension council or the circuit court;

(Q) Hire date means the date that an employee begins actual employment with an employer;

(R) Hour of service means each hour for which an employee is paid or entitled to payment for the performance of duties for the employer;

(S) LAGERS means the Local Government Employees' Retirement System presently codified at sections 70.600 to 70.755, RSMo;

(T) Normal form of benefit means an annuity paid in equal monthly installments on the first day of each calendar month in which the participant shall have lived the entire preceding calendar month;

(U) Part-time employee means an employee regularly employed by an employer or an elected or appointed county official who is under the direct control and supervision of an employer or an elected or appointed county official and who is subject to continued employment, promotion, salary review or termination by an employer or an elected or appointed county official and who is compensated directly from county funds and whose position is not anticipated to require the actual performance of duties during one thousand (1,000) hours or more per calendar year;

(V) Participant means an employee covered by this plan and a former employee with a vested accrued benefit remaining in the plan;

(W) Plan, or CERF, means the County Employees' Retirement Fund, as described in sections 50.1000–50.1300, RSMo;

(X) Plan year means the calendar year;

(Y) Primary Social Security amount means the old age insurance benefit pursuant to section 202 of the Social Security Act (42 U.S.C. 402) payable to a participant at age sixty-two (62). Such determination shall be at the time that creditable service ends without assuming any future increases in compensation, any future increases in the taxable wage base, any changes in the formulas used pursuant to the Social Security Act, or any future increases in the Consumer Price Index; provided, however, that if the participant's creditable service ends after age sixty-two (62), the primary Social Security amount shall be determined pursuant to the Social Security Act as in effect at the time the participant reached age sixty-two (62). However, it shall be assumed that the employee will continue to receive compensation at the same rate as that received at the time the determination is being made, until the participant reaches age sixty-two (62). The first year of compensation as an employee shall be regressed at three percent (3%) per year with respect to years prior to the period of creditable service. For this purpose, the "first year of compensation" shall be the first complete calendar year in which the plan has documented information regarding the participant's compensation. If the board does not have records of a participant's compensation for a plan year, the board may make reasonable estimates of compensation, if the participant does not supply the records described in 16 CSR 50-2.050;

(Z) Prime rate means the prime rate at any given time as listed in the Historical Chart of Prime Rates at www.nfsn.com/library/prime/htm, or any other source which the board in its discretion deems to be reliable;

(AA) Prior plan means the County Employees' Retirement System as in effect on December 31, 1999;

(BB) Prior service means a participant's service rendered prior to August 28, 1994;

(CC) Required beginning date means the April first of the calendar year following the later of the calendar year in which the participant reaches age seventy and one-half (70 1/2), or the calendar year in which the participant separates from service;

(DD) Separation from service means the severance of a participant's employment with an employer for any reason, including retirement; provided that a participant shall not be deemed to have incurred a separation from service if the participant resumes employment with an employer within thirty (30) days after terminating employment with an employer;

(EE) Survivor annuitant means the individual other than a beneficiary eligible to receive an annuity following the death of a participant who is receiving an annuity;

(FF) Target replacement ratio means:

1. Eighty percent (80%), if a participant's average final compensation is thirty thousand dollars ($30,000) or less;

2. Seventy-seven percent (77%), if a participant's average final compensation is forty thousand dollars ($40,000) or less, but greater than thirty thousand dollars ($30,000);

3. Seventy-two percent (72%), if a participant's average final compensation is fifty thousand dollars ($50,000) or less, but greater than forty thousand dollars ($40,000); and

4. Seventy percent (70%), if a participant's average final compensation is greater than fifty thousand dollars ($50,000);

(GG) Trust fund means the custodial account established to fund benefits under the plan; and

(HH) Trustee means the entity, or individuals, or committee that is responsible for holding and managing the trust fund that is appointed by the board.

(2) The masculine gender shall be deemed to include the feminine and the singular shall include the plural unless otherwise clearly required by the context.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Rescinded and readopted: March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.020 Payroll Contributions. This rule set forth what payroll contributions were required from employees in counties that either are or are not members of the Local Government Employees' Retirement System.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1998. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed June 1, 1999, effective Nov. 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.020 Employee Contributions

PURPOSE: This rule clarifies the nature of payroll contributions required from employees both in counties which are members of the Local Government Employees' Retirement System and those counties which are not members of the Local Government Employees' Retirement System.

(1) A participant who is not a member of Local Government Employees' Retirement System (LAGERS) is subject to a two percent (2%) monthly payroll deduction beginning with the first payroll period after the participant's entry date. This payroll deduction shall constitute the participant's required contribution to the plan and after January 1, 2000, shall be designated as an employer "pick-up" contribution, as described in section 414(h)(2) of the *Internal Revenue Code*. A participant may not waive this contribution, or terminate this contribution requirement by opting out of the plan.

(2) Participants who are members of LAGERS are not subject to any payroll deductions in connection with their participation in the plan.

(3) Contributions Required from Part-Time Employees in Non-LAGERS Counties. Participants in non-LAGERS counties have two (2) options with regard to the prior service earned while they are still qualifying for entry into the plan. A participant must make his or her election to either forego or purchase this prior service as outlined in subsections (A) and (B) upon their entry into the plan at the first available entry date. Such participant may either—

(A) Forego those months of prior service and accrue eight (8) years of service from their entry into the plan; or

(B) Purchase the prior service at the rate of two percent (2%) times the total compensation earned during this prior service period. Participants selecting this option may purchase the prior service with a lump-sum contribution or through monthly payroll deductions in addition to the regular monthly payroll deduction. If the participant elects to purchase the prior service with an additional payroll deduction, then the deduction shall not extend longer than the period of prior service being purchased.

(4) A participant shall not be eligible for a benefit under this plan until all contributions and other payments required by law have been received on behalf of a participant.

(5) When a participant receives a refund of contributions from LAGERS, pursuant to section 70.690, RSMo, the county clerk shall forward a copy of the LAGERS report of the refund to the plan administrator of County Employees' Retirement Fund (CERF) to notify CERF of the change in the participant's LAGERS status. The participant's service for the period refunded shall become non-LAGERS service and shall be calculated as such for purposes of the participant's retirement annuity and any purchase of prior service related thereto. The participant is responsible for notifying CERF of his or her intention to apply for a section 70.690 refund and for verifying that the information on any retirement information received from CERF is correct with respect to the participant's LAGERS or non-LAGERS status. If the participant fails to notify CERF of an incorrect LAGERS status on his or her retirement paperwork, the participant will be subject to the provisions of sections 50.1034 and 50.1036, RSMo.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed June 1, 1999, effective Nov. 30, 1999. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.030 Eligibility for Benefits. This rule clarified who was eligible for membership in the County Employees' Retirement Fund.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.030 Eligibility and Participation

PURPOSE: This rule describes when employees may become plan participants.

(1) General Rule. An employee shall become a participant in the plan upon his or her entry date. Effective on and after January 1, 2000, an employee shall not be permitted to opt out of the plan.

(2) Prior Plan Opt Outs. Before January 1, 2000, an employee had the right to opt out of the plan. Employees who exercised this opt-out option must wait three (3) years from the date the opt-out decision was made before becoming a participant. After this three (3)-year period has elapsed, the employee shall have a three (3)-month period to opt in to the plan. If the employee fails to opt in during an applicable three (3)-month period which begins on or after January 1, 2000, the employee shall be forever ineligible to participate in the plan.

(3) Membership service for part-time employees and service toward vesting in the plan for all participants will be calculated as follows:

(A) A participant must work one thousand (1,000) hours of service in a plan year to be enrolled in the plan;

(B) A participant must work one thousand (1,000) hours of service in a plan year to receive a year of vested service;

(C) A participant must have at least eight (8) years of service with at least one thousand (1,000) hours of service worked per plan year to be vested in the plan. A participant shall receive vesting service credit for a year only if he or she has received creditable service credit for the months in such plan year during which he earned hours of service.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.035 Timing of Applications and Benefit Start Date. This rule clarified when a member's benefits would begin.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1996. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded: Filed March 17, 2000,

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.035 Payment of Benefits

PURPOSE: This rule clarifies options of benefit payments available to members of the County Employees' Retirement Fund, the procedure for selecting such options, and the timing of benefit payments.

(1) Method of Payment. Prior to his or her annuity starting date, each participant shall be offered the following optional methods of payment, in addition to the normal form of benefit. Any benefits payable under such optional methods of payment shall be the actuarial equivalent of the normal form of benefit:

(A) Joint and One Hundred Percent (100%) Survivor Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in the same monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(B) Joint and Seventy-Five Percent (75%) Survivor Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in three-quarters (3/4) of such monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in

which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(C) Joint and Fifty Percent (50%) Survivor Annuity. An annuity, whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in one-half (1/2) of such monthly amount to his or her survivor annuitant during his or her lifetime, on the first day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire preceding calendar month;

(D) Ten (10) Year Certain and Life Annuity. An annuity whereby a monthly installment shall be paid to the participant during his or her lifetime. If the participant dies after receiving one hundred twenty (120) monthly payments, the annuity shall end with the calendar month immediately preceding the participant's death. If the participant dies before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made to the participant's beneficiary (if surviving), or in a single sum to the participant's estate, if the beneficiary predeceases the participant. If the beneficiary survives the participant, but dies before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made to the beneficiary's estate in a single sum. In the case where the beneficiary and the participant die simultaneously before one hundred twenty (120) monthly payments have been made, then the remaining payments under the form shall be made in a single sum to the participant's estate;

(E) Level Income Option—Life Only. An annuity that is adjusted so that the monthly annuity payable for the months ending before the participant attains age sixty-two (62) is approximately equal to the sum of i) the monthly adjusted annuity payable for the month coinciding with and subsequent to the month in which the participant reaches age sixty-two (62) and ii) the monthly Social Security benefit payable to the participant at age sixty-two (62); or

(F) Level Income Option—Joint and Survivor.

1. An annuity, whereby a monthly installment shall be paid to the participant during his or her lifetime and thereafter in the percentage (either fifty (50), seventy-five (75), or one hundred (100)) of such monthly amount, as elected by the participant, to his or her survivor annuitant during his or her lifetime, on the last day of each calendar month in which the participant or his or her survivor annuitant shall have lived the entire month. The annuity shall be adjusted so that the monthly annuity payable for the months ending before the participant attains age sixty-two (62) is approximately equal to the sum of i) the monthly adjusted annuity payable for the month coinciding with and subsequent to the month in which the participant reaches age sixty-two (62) and ii) the monthly Social Security benefit payable to the participant at age sixty-two (62). If the participant dies before he or she reaches age sixty-two (62), the survivor annuitant's benefit shall be adjusted on the date the participant would have reached age sixty-two (62) in the manner that the participant's annuity would have been adjusted on such date.

2. Notwithstanding anything in the preceding paragraph to the contrary, if the monthly benefit payable to the participant under this form after the participant's sixty-second birthday is zero, then the monthly adjusted annuity before age sixty-two (62) shall be a period-certain annuity, commencing on the participant's annuity starting date, and ending on the date the participant attains (or would have attained) age sixty-two (62). If the participant dies before attaining age sixty-two (62), then the remaining payments under the form shall be made to the participant's survivor annuitant (if surviving), or in a single sum to the participant's estate, if the survivor annuitant predeceases the participant. If the survivor annuitant survives the participant, but dies before the participant's sixty-second birthday, then the remaining payments under the form shall be made to the survivor annuitant's estate.

(2) Election of Payment Method. A payment option shall be elected, changed or revoked by the participant, his or her guardian, or attorney-in-fact, by written notice filed with the board during the election period specified in section (3) below; provided, however:

(A) A survivor annuitant under an option may not be changed after an election has been received by the board (or by its designee);

(B) A participant shall be deemed to have elected the normal form of benefit unless he or she makes an affirmative election not to take such an annuity in accordance with this section. Such annuity shall commence as soon as administratively feasible following the participant's required beginning date.

(3) Election Period. Generally, a participant must complete an application for benefits at least thirty (30), but not more than ninety (90), days prior to the date he or she wishes benefits to commence. The annuity starting date for such a participant shall be the first of the month coincident with or following the date specified by the participant, or, if earlier, the participant's required beginning date. If the participant does not submit an application at least thirty (30) days prior to his or her separation from service, the payments will not be retroactive to the date of separation from service. Once a participant has submitted an application, if supporting documentation has been requested but has not been obtained by the annuity starting date selected by the participant and the application has not been completely processed, the participant will not receive the first benefit payment until the additional documentation has been received and the application has been completely processed. The payments will, however, be retroactive to the annuity starting date designated by the participant in his or her application. If a participant has not submitted an application upon his or her separation from service, his or her benefits will start on the first of the month following a thirty (30)-day period from the date of the application.

(4) Payments after Death of Survivor Annuitant. In the event a participant has chosen an optional form of payment which provides for a continuing payment to a survivor annuitant after the death of the participant in which the participant received a reduced annuity during his or her lifetime and the participant's survivor annuitant precedes the participant in death, the participant's benefit shall revert, effective the next month following the death of the participant's survivor annuitant, to an amount equal to his or her normal annuity at the time of the annuity starting date plus any cost-of-living or other increases that the participant may have received prior to the survivor annuitant's death. Notwithstanding the preceding sentence, if the participant elected the Level Income Option—Joint and Survivor, the participant's benefit shall revert to the benefit he or she would have received had he or she elected the Level Income Option—Life Only. It shall be the participant's duty to inform the board or its designee of the death of such a survivor annuitant.

(5) 401(a)(9) Requirements. Regardless of any contrary provision in the plan, any distribution shall be determined in accordance with *Internal Revenue Code* section 401(a)(9) and the proposed regulations thereunder, including the "minimum distribution incidental benefit requirement" of Prop. Reg. section 1.401(a)(9)-2 (62 Fed. Reg. 67,780 (Dec. 30, 1997)). Accordingly, distribution of a participant's accrued benefit shall begin no later than his or her required beginning date.

(6) Non-Assignability of Benefits. A participant's right to an annuity or other benefits under the plan shall not be subject to execution, garnishment, attachment, writ of sequestration, the operation of bankruptcy or insolvency laws, a qualified domestic relations order (as defined in 26 U.S.C. section 414(p) or 29 U.S.C. section 1056(d)), or to any other claim or process of law whatsoever, and shall be unassignable.

(7) Return of Mistaken Payments. Notwithstanding anything to the contrary, a participant or beneficiary is entitled to only those benefits provided by the plan and promptly shall return any payment, or portion thereof, made by mistake of fact or law. The board may offset the future benefits of any recipient who refuses to return an erroneous payment, in addition to pursuing any other remedies provided by law.

(8) Correction of Underpayments. Should any error result in any participant or beneficiary receiving less than he or she should have been entitled, then such error shall be corrected by paying the participant or beneficiary a lump-sum amount equal to the underpayment, without interest.

(9) In the case of special consultants, as provided for in section 50.1090.2, RSMo, who do not return buyback invoices or requested supporting documentation, the benefit will begin on the first of the month following payment of the initial fifty percent (50%) buyback amount.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed July 29, 1997, effective Jan. 30, 1998. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.040 Refund of Contributions. This rule clarified eligibility for a refund of employee payroll contributions upon cessation of membership in the County Employees' Retirement Fund.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.040 Separation from Service Before Retirement

PURPOSE: This rule describes the effect of a separation from service on a participant's benefit.

(1) Upon separation from service, any participant with less than eight (8) vested years of service shall forfeit all rights under the plan, including the participant's creditable service as of the date of the participant's separation from service. This forfeiture shall be applied to reduce the board's obligation to contribute to the plan. Such a participant will receive a refund of any of his or her contributions upon the receipt by the board or its designee of a termination notice. Such refund shall be made to the participant in a single sum as soon as administratively feasible following receipt of the termination notice by the board (or its designee). For purposes of this section, it shall not be administratively feasible for the board or its designee to disburse a refund until the board or its designee also receives proper verification and reconciled contribution information from the employer.

(2) A participant who has a separation from service, before reaching the age of sixty-two (62), after having earned at least eight (8) vested years of service shall be entitled to a deferred vested benefit, determined in accordance with the formula described in 16 CSR 50-2.090. The participant may elect to defer the receipt of his or her deferred vested benefit, until the participant's attainment of age sixty-two (62), or the participant may elect to begin receiving his or her deferred vested benefit on the first day of any month following the later of the date of separation from service or age fifty-five (55). The amount of the benefit, if paid before the participant's sixty-second birthday, shall be the actuarial equivalent of the participant's accrued benefit.

(3) Members who terminate employment and then resume employment with an employer within thirty (30) days will not forfeit their prior service and will not be required to receive a refund of their payroll contributions.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.050 Certification of Employment and Salary. This rule clarified the process for certifying employment and salary figures upon termination of employment for purposes of calculating retirement benefits in the future.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo Supp. 1998. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed April 16, 1999, effective Sept. 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.050 Certifying Service and Compensation

PURPOSE: This rule clarifies the process for certifying employment and salary figures upon separation from service for purposes of calculating retirement benefits in the future.

(1) Upon separation from service, a participant shall request that the county clerk complete a certification form on a form to be provided by the board or its designee which verifies the length of employment and the two (2) highest years of compensation received by the participant. The participant must provide documentation to support the compensation figures which must be attached to the certification including W-2 forms, 1099 forms, canceled checks and other supporting documentation reflecting compensation received. In determining average final compensation, County Employees' Retirement Fund (CERF) will use the cash receipts and disbursements method as defined by the *Internal Revenue Code*. Lump sum payments of benefits, back pay, or compensation for unused vacation days or sick leave will not be included in calculating average final compensation if the payments are attributable to a prior year or prior years than the year being claimed as a high year.

(2) The participant shall forward the completed certification to the board where it shall be maintained until needed to calculate the participant's retirement benefit.

(3) Any certification submitted without supporting documentation will be reviewed by the board.

(4) Fee-Based or Fee/Salary-Based Officials.

(A) Any participant whose compensation is collected partly or wholly from fees or a combination of fees and salary must submit, by March 1 of each year, proof of all fees and/or salary received, less operating and other expenses.

(B) Two percent (2%) of the net amount of all fees and/or salary collected as compensation by such participants who are not members of the Local Government Employees' Retirement System (LAGERS) must be submitted to the plan administrator not less than annually and no later than March 1 of each year for the preceding calendar year.

(C) Any unpaid balance of the required fee or salary contributions due to the fund must be paid in full prior to distribution of any retirement benefit amount or death benefit amount.

(D) Prior to January 1, 2000, some officials received partial or full compensation through various fees for personal services performed in their capacity as an elected official. If a member has such compensation which was not processed through county payroll prior to January 1, 2000, and the member chooses to use as a high year for retirement calculations a year including such fees, the member must make the required contributions on all of these fees collected between August 27, 1994, and December 31, 1999, prior to his or her retirement commencement.

(E) Beginning January 1, 2000, officials whose compensation is collected partly or wholly from fees or a combination of fees and salary may only include these fees if they are processed through county payroll and in accordance with the definition of compensation included in 16 CSR 50-2.010(1)(K).

(F) Compensation received from sources other than an employer and compensation received pursuant to independent contracting relationships shall not be included in calculating the retirement benefit.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed July 16, 1998, effective Jan. 30, 1999. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed April 16, 1999, effective Sept. 30, 1999. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

PROPOSED RESCISSION

16 CSR 50-2.060 Survivorship Rights and Service Requirements. This rule clarified a prohibition on the eligibility

for death benefits and also clarified the eligibility and enrollment of part-time employees.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Dec. 9, 1997, effective June 30, 1998. Amended: Filed March 2, 1998, effective Aug. 30, 1998. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.080 Source of Pension Funds

PURPOSE: This rule describes the source of funds available to the plan.

(1) The source of contributions to this plan (if required) for a plan year shall be the funds described in sections 50.1020, 50.1190, 50.1200 and 150.150, RSMo that have been accumulated during the plan year. Such funds shall be held in a separate account until the board determines, in accordance with the advice of the actuary, the amount of such funds that must be contributed to this plan for a plan year to maintain its actuarial sufficiency. The board shall ensure that sufficient amounts shall be contributed so that this plan is funded in a manner consistent with the provisions of the *Internal Revenue Code* and such other laws and regulations as shall be applicable. The remainder of funds accumulated in the separate account during a plan year shall be contributed to the defined contribution plan established in sections 50.1210 to 50.1260, RSMo.

(2) Any gains arising from the death of participants prior to retirement or forfeiture upon separation from service shall not be utilized to increase the benefits to the remaining participants, but shall be retained in the trust fund.

(3) Notwithstanding anything to the contrary, any contribution made to the plan by the board as result of a mistake of fact shall be returned to the separate account as soon as practicably possible following discovery of the mistake, but not later than one year after the payment of the contribution. The maximum amount that may be returned is the excess of the amount contributed, over the amount that would have been contributed had no mistake of fact occurred. Earnings attributable to the excess contribution may not be returned, but losses attributable thereto must reduce the amount to be so returned.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.090 Normal Retirement Benefit

PURPOSE: This rule describes when a participant is eligible for unreduced retirement benefits under the plan.

(1) Eligibility for Normal Retirement Benefit. To be eligible to receive a normal retirement benefit from the plan, a participant must:

(A) Have attained the age of sixty-two (62);

(B) Applied for retirement benefits as provided by applicable laws and regulations; and

(C) Earned eight (8) or more vested years of service.

(2) Benefit to Non-LAGERS Participants. The normal retirement benefit of a participant who is not a member of the Local Government Employees' Retirement System (LAGERS) shall be a monthly benefit in the normal form of benefit equal to the greater of:

(A) Twenty-four dollars ($24) multiplied by years of creditable service, up to a maximum of twenty-five (25) years; or

(B) An amount determined according to the following formula:

$$((TRR \times AFC) - PSSA) \times (CS/25)$$

Where:

TRR is the participant's target replacement ratio;

AFC is the participant's average final compensation;

PSSA is the participant's primary Social Security amount, on a monthly basis; and

CS is the participant's creditable service (up to a maximum of twenty-five (25) years).

(3) Benefit to LAGERS Participant. The normal retirement benefit of a participant who is also a member of LAGERS shall be sixty-six and two-thirds percent (66 2/3%) of the normal retirement benefit determined pursuant to section (2).

(4) LAGERS Participant Defined. Generally, a participant is considered a member of LAGERS with respect to a period of creditable service (including prior service) if he or she has been exempt from making the mandatory two percent (2%) contribution on account of his or her membership in LAGERS. Accordingly, the formula set forth in section (3) shall be used to determine a participant's benefit for such period of creditable service. If a participant ceases to qualify for active membership or ceases to be an active member in LAGERS, the formula described in section (2) shall be used to determine the participant's benefit for the creditable service earned during periods when the participant ceased to so qualify or ceased to be an active member in

LAGERS. If a participant receives a refund of contributions from LAGERS, pursuant to section 70.690, RSMo, then the formula described in section (3) shall be used to determine the participant's benefit, if the participant makes an additional contribution to the Plan. The amount of such additional contribution shall be equal to two percent (2%) of the participant's compensation for the period in which he or she was a LAGERS participant (plus any interest and penalties assessed by the board). The amount may be paid in one lump sum, or by payroll deduction.

(5) Minimum Benefit. The normal retirement benefit of a participant shall not be less than the annuity the participant had earned as of the day before January 1, 2000, under the prior plan. This minimum benefit shall be determined without regard to any exclusion of prior service mandated by the terms of the prior plan.

(6) Maximum Benefit. No benefit payable from the plan shall exceed the maximum benefit permitted under section 415(b) of the *Internal Revenue Code* (Code). If a participant's membership in another retirement plan results in the violation of the limits of Code section 415, the participant's benefit in this plan shall be reduced in order to ensure compliance with such Code section.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.100 Early Retirement Benefit

PURPOSE: This rule describes when a participant may receive early retirement benefits from the plan.

A participant who has not attained age sixty-two (62) but has both attained at least his or her fifty-fifth birthday and has eight (8) or more vested years of service may elect to retire as of the first day of any calendar month following written notice to the board (or its delegatee). At the option of the participant, benefits may begin as of any calendar month following his or her early retirement and preceding the participant's sixty-second birthday. Such early retirement benefit of a participant shall be payable to him/her as the normal form of benefit, and shall equal the greater of the actuarial equivalent of his or her accrued benefit or his or her accrued benefit as of his or her annuity starting date, reduced by four-tenths of one percent (0.4%) for each month by which the annuity starting date precedes the participant's sixty-second birthday, and by an additional three-tenths of one percent (0.3%) for each month by which the annuity starting date precedes the participant's sixtieth birthday.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.110 Rehires

PURPOSE: This rule clarifies the treatment of a former employee who returns to covered employment.

(1) Suspension of Benefits. If a participant returns to employment after a separation from service, benefit payments to the individual will be suspended, pending the termination of employment and completion of a new retirement application. All elections made in the original retirement application will be revoked upon completion of an enrollment form indicating a return to county employment. While employed, the individual will accrue creditable service, which, upon termination of employment and submission of a new retirement application, will be used to recalculate the benefit in accordance with the provisions of this chapter. If the individual had started a buyback of prior service during the first benefit payment period, the total paid toward the buyback will be subtracted from the new buyback figure. Benefits less any remaining buyback will recommence upon termination of employment. The buyback will extend for a maximum of forty-eight (48) months less the total number of months during which the individual had already made a buyback.

(2) Rejoining the Plan. Notwithstanding the provisions of section (1), a participant may work as a part-time employee, and continue to receive benefit payments. Such service as a part-time employee shall not increase or change the participant's benefit, unless the participant has an entry date, and again becomes an active participant in the plan. In such case, a participant shall not receive creditable service for any period of employment preceding his or her entry date unless i) the participant purchases such service in accordance with section 16 CSR 50-3.010(3) or ii) such creditable service was used in calculating the participant's accrued benefit as of the date of his or her separation from service.

(3) Nonvested Participants. A participant who has a separation from service with less than eight (8) years of creditable service forfeits creditable service at the time of his or her separation from service. Accordingly, if such an individual is rehired as an employee, that individual is treated as a new employee for all purposes under the plan. However, such a rehired individual may be able to repurchase his or her forfeited creditable service under section 16 CSR 50-3.010(3).

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.120 Benefits Upon Participant's Death

PURPOSE: This rule describes the benefits available to the beneficiaries of participants who die before receiving a retirement benefit.

(1) Lump Sum Death Benefit. A death benefit of ten thousand dollars ($10,000) shall be paid to the beneficiary of every active participant upon his or her death or, if the participant fails to designate a beneficiary, then to the participant's surviving spouse or, if there is no spouse, then in equal shares to the participant's surviving children. If there is neither a surviving spouse nor surviving children, then the benefit shall be paid to the active participant's estate.

(A) Designation of Beneficiary. Each participant may name a beneficiary on a form provided by the board and delivered to the board. Such designation may include more than one (1) person with one (1) or more secondary or contingent beneficiaries and shall be subject to change upon written request of such participant in the same manner as the original designation.

(B) If the participant executes a beneficiary designation form and lists more than one (1) beneficiary but fails to list the percentage of benefit that each beneficiary should receive, then the benefit shall be divided equally among the named beneficiaries.

(2) Spousal Death Benefit. If a participant dies before his or her annuity starting date but after completing eight (8) or more years of creditable service, the surviving spouse shall be entitled to survivorship benefits under the fifty percent (50%) annuity option as set forth in subsection 16 CSR 50-2.035(1)(C). If the participant was age sixty-two (62) or older at death, the surviving spouse's benefit shall begin to accrue on the first day of the month following the participant's death. If the participant was under age sixty-two (62) at death, the surviving spouse's benefits shall begin to accrue on the first day of the month following the date the participant would have attained age sixty-two (62) had the participant lived. In the event that a delay in the submission or processing of paperwork or some other delay results in the first payment of survivorship benefits commencing after the month in which the survivorship benefits began to accrue, such survivorship benefits shall be retroactive to the date on which the survivorship benefits began to accrue. Alternatively, the surviving spouse may elect to receive the reduced actuarially equivalent benefit payable on the first day of any month following the date of the participant's death and prior to the date the participant would have attained age sixty-two (62).

(3) No Benefits Payable to Beneficiary Who Intentionally Kills Participant. The board shall cease paying benefits to any survivor annuitant or beneficiary who is charged with the intentional killing of a participant without legal excuse or justification. A survivor annuitant or beneficiary who is convicted of such charge shall no longer be entitled to receive benefits. If the survivor annuitant or beneficiary is not convicted of such charge, the board shall resume payment of benefits and shall pay the survivor annuitant or beneficiary any benefits that were suspended pending resolution of such charge.

(4) The death benefit will only be extended to part-time and seasonal employees in months for which they receive pay.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.130 Direct Rollover Option

PURPOSE: This rule describes the direct rollover option authorized by section 50.1260, RSMo.

(1) A distributee may elect to have an eligible rollover distribution paid directly to a single eligible retirement plan specified by the distributee. However, this election may not be made if the total eligible rollover distributions paid to the distributee will be less than two hundred dollars ($200).

(2) A distributee may elect to divide an eligible rollover distribution so that part is paid directly to an eligible retirement plan and part is paid to the distributee. However, the part paid directly to the eligible retirement plan must total at least five hundred dollars ($500).

(3) A distributee may elect a direct rollover after having received a written notice which complies with the rules of *Internal Revenue Code* (Code) section 402(f). In general, payment to a distributee shall not begin until thirty (30) days after the notice is given. However, payment may be made sooner if the notice clearly informs the distributee of the right to a period of at least thirty (30) days to consider the decision of whether or not to make a direct rollover, and the distributee, after receiving the notice, makes an affirmative election to receive an immediate distribution. A distributee who fails to make an election in the thirty (30)-day period shall receive the eligible rollover distribution immediately after the thirty (30)-day period expires.

(4) For purposes of this regulation, the following terms have the meanings set forth below:

(A) An "eligible rollover distribution" is any distribution or withdrawal payable under the terms of this plan to a participant, which is described in Code section 402(c)(4). In general, this term includes any single-sum distribution, and any distribution which is one in a series of substantially equal periodic payments made over a period of less than ten (10) years, and is less than the distributee's life expectancy. However, an eligible rollover distribution does not include the portion of any distribution that constitutes a

minimum required distribution under Code section 401(a)(9). Such term also does not include a distribution to the participant's beneficiary, unless the beneficiary is the participant's spouse.

(B) "Eligible retirement plan" means:

1. An individual retirement account described in Code section 408(a);

2. An individual retirement annuity described in Code section 408(b);

3. An annuity plan described in Code section 403(a); and

4. A retirement plan qualified under Code section 401(a), but only if the terms of the plan permit the acceptance of rollover distributions.

However, in the case of an eligible rollover distribution to a beneficiary who is a surviving spouse, an "eligible retirement plan" is an individual retirement account or an individual retirement annuity.

(C) "Distributee" means a participant or the spouse of a deceased participant.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.140 Cost-of-Living Adjustment

PURPOSE: This rule describes the eligibility and amount of any cost-of-living adjustment.

(1) Eligibility for Annual Cost-of-Living Adjustment. To be eligible to receive any cost-of-living adjustment (COLA), adopted by the board pursuant to section 50.1070, RSMo, a retired participant must meet the following criteria:

(A) Is presently receiving an annuity, even if the annuity is payable in accordance with the prior plan, and has been receiving such annuity since at least July 1 of the previous year; and

(B) Has not waived his or her right to receive the COLA increase.

(2) The amount of the COLA increase for a year shall be determined by the board in February of each year, based on the excess of the consumer price index for the preceding calendar year over the consumer price index for the calendar year immediately prior thereto. Notwithstanding the preceding sentence, this automatic increase shall not exceed one percent (1%) per year. The total increase in the amount of benefits received pursuant to the provisions of this section shall not exceed fifty percent (50%) of the participant's accrued benefit determined as of his or her most recent separation from service.

(3) Any COLA approved by the board will be payable to eligible retirees monthly, including those who retired under the terms of the prior plan, commencing on July 1 of any given year, following the board's determination of the appropriate increase. The application of any COLA with regard to retired and rehired members is shown in Table 1 to 16 CSR 50-2.150.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.150 Transition Rules and Effective Date

PURPOSE: This rule sets forth the effective date of the rules of this chapter and describes the classes of participants to whom the 1999 legislative changes to the plan apply.

(1) Classes of Participants Affected by Amendment. The following matrix, which is shown in Table 1, sets forth different classes of participants who are affected by the amendments to sections 50.1000 to 50.1300, RSMo, which became effective January 1, 2000.

(2) USERRA. A participant who incurs a separation from service before January 1, 2000, on account of his or her stint in a uniformed service shall be treated as eligible for benefits determined under the new plan formula that is effective January 1, 2000, if such treatment would be required under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(3) Consequences of Treatment as a Former Employee. To the extent a participant is treated as a former employee under this section:

(A) Creditable service shall be determined in accordance with the provisions of the prior plan; and

(B) The participant's retirement benefit shall be determined in accordance with the benefit formula set forth in the prior plan.

(4) Continued Application of Forfeiture Rules. Nothing in this section shall reinstate amounts previously forfeited in accordance with section 50.1140, RSMo. Accordingly, a participant who had a separation from service before January 1, 2000, but was not vested in his or her accrued benefit before January 1, 2000, shall be treated as a new employee.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

TABLE 1

County Employees' Retirement Fund
Treatment of Service After Rehire, Membership Service, and Prior Service for Purposes of Benefit Determination at Ultimate Retirement Date
Depending Upon Employment Status on June 10, 1999, and When Return to Work

	In County Employment on June 10, 1999 — Ultimately Terminates After December 31, 1999						In County Employment on June 10, 1999, Terminates Before December 31, 1999 — Ultimately Terminates Before January 1, 2000					
	Had Returned to Work <2000			Had Returned to Work >=2000			Had Returned to Work <2000			Had Returned to Work >=2000		
	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service
Past Retiree	NP	OP	OP Subject to Purchase**	NP	OP**	OP Subject to Purchase**	OP	OP	OP Subject to Purchase	NA	NA	NA
Vested Termination	NP	NP	NP	NP	NP	NP	OP	OP	OP Subject to Purchase	NA	NA	NA
Non-vested Termination	NP*	NP*	NP*	NP*	NP*	NP*	OP*	OP*	OP* Subject to Purchase	NA	NA	NA

	Not in County Employment on June 10, 1999 — Ultimately Terminates After December 31, 1999						Not in Employment on June 10, 1999, Back to Work and Terminates Before 12/31/99 — Ultimately Terminates Before January 1, 2000					
	Had Returned to Work <2000			Had Returned to Work >=2000			Had Returned to Work <2000			Had Returned to Work >=2000		
	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service	Future Service	Previous Membership Service	Prior Service
Past Retiree	NP	OP	OP Subject to Purchase**	NP	OP	OP Subject to Purchase**	OP	OP	OP Subject to Purchase	NA	NA	NA
Vested Termination	NP	OP	OP Subject to Purchase	NP	OP	OP Subject to Purchase	OP	OP	OP Subject to Purchase	NA	NA	NA
Non-vested Termination	NP*	NP*	NP* Subject to Purchase	NP*	NP*	NP* Subject to Purchase	OP*	OP*	OP* Subject to Purchase	NA	NA	NA

Key to Abbreviations and Terminology
NP: New Plan formula effective January 1, 2000
OP: Old Plan formula in effect on December 31, 1999
Future Service is service on and after January 1, 2000
Previous Membership Service is service between August 28, 1994, and December 31, 1999
Prior Service is service before August 28, 1994

*Subject to Completion of 8 Years of Vesting Service
**With COLAs (cost of living increases) granted since the time of rehire

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership *and Benefits*

PROPOSED RULE

16 CSR 50-2.160 Administration of Fund

PURPOSE: This rule sets forth general rules regarding the administration of the Plan.

(1) Plan Administration. The board shall have sole discretionary responsibility for the operation, interpretation, and administration of the plan and for determining eligibility for plan benefits. Any action taken on any matter within the discretion of the board shall be final, conclusive, and binding on all parties. In order to discharge its duties hereunder, the board shall have the power and authority to delegate ministerial duties and to employ such outside professionals as may be required for prudent administration of the plan. The board shall also have authority to enter into agreements as may be necessary to implement this plan. Any individual member of the board who is otherwise eligible may participate in the plan, but shall not be entitled to make decisions solely with respect to his or her own participation and benefits under the plan.

(2) To implement the plan, the board shall enter into a trust agreement, so that plan funds shall be segregated from an employer's own assets and held in trust by the trustee for the exclusive benefit of participants and their beneficiaries. Any or all benefits that may accrue to any participant or beneficiary under this plan shall be subject to the terms and conditions of said trust agreement. Except as provided in section (5), it shall be impossible under any circumstances at any time for any part of the corpus or income of the trust fund to be used for, or diverted to purposes other than the exclusive benefit of participants and their beneficiaries.

(3) Plan Expenses. All expenses of plan administration, including (by way of illustration and not limitation) those incurred by the board and the fees of the trustee shall be paid from the trust fund.

(4) Claims for Benefits. A claim for a benefit under this plan shall be reviewed by the board (or by its designee) in accordance with the procedure outlined in section 16 CSR 50-2.035. An appeal of an adverse claim decision shall be processed in accordance with section 16 CSR 50-1.020.

(5) Facility of Payments. If any participant shall be physically, mentally or legally incapable of receiving or acknowledging receipt of any payment under the plan to which he or she is entitled, the board, upon the receipt of satisfactory evidence of his or her incapacity and satisfactory evidence that another person or institution is maintaining him/her and that no guardian or committee has been appointed for him/her, may cause any payment otherwise payable to him/her to be made to such person or institution so maintaining him/her.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.010 Calculation of Creditable Service. This rule clarified the process for calculating creditable service of a member.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. The Board of the County Employees' Retirement Fund wishes to rescind this rule and adopt a new rule in its place in order to ensure compliance with the applicable law.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RULE

16 CSR 50-3.010 Creditable Service

PURPOSE: This rule describes what constitutes creditable service under the plan, and describes how such service may be purchased.

(1) General Rule. Creditable service means a participant's period of employment as an employee, including the participant's prior service, except as provided in section (2). In addition, absences for sickness and injury of less than twelve (12) months shall be counted as creditable service, and any periods of service in a uniformed service (as defined in section 414(u) of the *Internal Revenue Code* (Code)), shall be included in creditable service to the extent required by the Uniformed Service Employment and Reemployment Rights Act of 1994. A participant (other than a part-time employee) shall receive credit for one-twelfth (1/12) of a year for each month in which the participant earns an hour of service. Elective or appointive county officials receive one (1) year of service for each year in office. A person may not earn more than one (1) year of creditable service in any plan year.

(2) Excluded Service. Unless the participant purchases such service in accordance with section (3), a participant's creditable service shall not include:

(A) A period of employment during which the participant opted out of the plan, and any prior service excluded under the terms of the prior plan as a result of the opt out;

(B) Prior service by a former employee, unless purchased in accordance with the terms of the prior plan or unless purchased by a special consultant as provided for in section 50.1090.2, RSMo and in 16 CSR 50-3.060;

(C) Service prior to a separation from service, if the participant was not vested at the time of the separation from service;

(D) If the participant is a part-time employee, service prior to the participant's entry date, unless the participant purchases service (up to a maximum of one (1) year) pursuant to section (3) of this regulation;

(E) Service after a participant's entry date, if the required two percent (2%) contribution is not withheld from the participant's pay for any reason; or

(F) A participant's stint in a uniformed service (within the meaning of section 414(u) of the Code), if the participant was not a member of Local Government Employees' Retirement System (LAGERS) before such stint.

(3) Purchase of Service. A participant described in subsections (2)(A), (2)(B), (2)(D), (2)(E) or 2(F) may purchase his or her service excluded under such paragraphs by notifying the board, in writing, of his or her election to buy back such service within sixty (60) days following the date the employee becomes a plan participant. A participant described in subsection (2)(C) who purchases excluded service as described in the preceding sentence will become vested in his or her accrued benefit only if the participant completes eight (8) years of uninterrupted creditable service after his or her return to county employment. The written election shall include a statement indicating the portion of the excluded service he or she elects to purchase. If a participant makes a request in accordance with this section to purchase service, the board, or its designee, will calculate the cost of buying back the service including interest and penalties provided by statute. The participant shall be notified of the cost to buy back service. After receiving this notice, the participant may elect to buy back service either through a lump-sum payment due at the time of the election or a payroll deduction beginning with the first pay period after the participant makes the election. The participant may request that the payroll deduction be made in equal monthly installments over a period not to exceed the period of prior service being purchased or four (4) years, whichever is shorter. If the participant elects to buy back excluded service through an installment plan of payroll deductions and either dies or separates from service prior to completing the installment plan, then the participant or his or her spouse may pay the remaining amount due under the installment plan within sixty (60) days following the participant's death or separation from service in a manner acceptable to the board or its designee. If such payment is not made, the participant shall not receive credit towards his or her retirement benefits for any unpaid portion of the service which is the subject of the installment plan.

(4) Part-Time Employees.

(A) Working More Than One Thousand (1,000) Hours. If a part-time employee works more than one thousand (1,000) hours of service in a plan year, he or she will receive one (1) full year (or twelve (12) months) of creditable service.

(B) Working Less Than One Thousand (1,000) Hours. If a part-time employee works less than one thousand (1,000) hours of service in a plan year, his or her creditable service shall be calculated by dividing the total number of hours worked by ninety-one (91) to arrive at the number of months of creditable service. This number shall be rounded to the next nearest whole number of months. If a part-time employee started or terminated employment within the calendar year, he or she may not receive more months of creditable service than the actual number of months worked.

AUTHORITY: section 50.1032, RSMo Supp. 1999. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded and readopted: Filed March 17, 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.020 Purchase of Prior Creditable Service. This rule clarified situations in which a member is entitled to purchase prior service as prior creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.030 Buyback of Prior Creditable Service Following Opt-Out by Member. This rule clarified the procedures for buying back prior creditable service when a member has opted out of membership in the County Employees' Retirement Fund for a period of time.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by

other rules, because, with certain exceptions, members are no longer required to purchase prior service, and because, after January 1, 2000, members are no longer permitted to opt-out of the County Employees' Retirement Fund.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.040 Buyback of Prior Creditable Service Earned Before Creation of Retirement System. This rule clarified the procedure by which county employees could purchase prior service accrued before August 28, 1994, as prior creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo 1994. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.050 Buyback of Prior Creditable Service Following Forfeiture of Creditable Service. This rule clarified procedures for buying back prior service following forfeiture of creditable service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED AMENDMENT

16 CSR 50-3.060 Buyback by a Special Consultant to the Board. The board is amending section (1) and deleting section (2).

PURPOSE: This amendment clarifies the language is section (1) to comply with terminology used in other regulations promulgated by the Board of the County Employees' Retirement Fund. This amendment also removes the language in section (2) because it is superseded by other regulations.

(1) Former county employees who were employed between January 1, 1990 and August 27, 1994, and who worked for *[the county]* **an employer** for at least eight (8) years may apply to the board to serve as a special consultant on the problems of retirement. Calculation of the amount required to purchase the prior service shall be in accordance with applicable statutes. The former employee must submit at least fifty percent (50%) of the purchase price with *[his/her]* **his or her** application to serve as a special consultant. If the former employee submits less than one hundred percent (100%) of the purchase price with *[his/her]* **his or her** application, then the remainder of the purchase price shall be deducted from the consultant's retirement benefits in equal monthly installments as agreed by the board and the consultant. Such payments shall not extend over more than four (4) years.

[(2) The County Employees' Retirement Fund will follow Missouri's common law which prohibits a spouse from receiving survivorship benefits if the spouse intentionally killed the member.]

*AUTHORITY: section 50.1032, RSMo Supp. [1998] **1999**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed March 17, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED AMENDMENT

16 CSR 50-3.070 Refund of Buybacks. The board is amending sections (1) and (2).

PURPOSE: This amendment clarifies the regulation to comply with terminology used in other regulations promulgated by the Board of the County Employees' Retirement Fund.

(1) *[Individuals]* **Former county employees** who have tendered their fifty percent (50%) buyback to County Employees' Retirement Fund **(CERF) as provided in 16 CSR 50-3.060**, but have not received a benefit, may request a refund of their buyback. To receive a refund, the *[individual]* **former county employee** must submit a written request to the plan administrator **of CERF**. Upon executing the refund request, the *[individual]* **former county employee** will forfeit the spousal survivorship benefit.

(2) *[Any individual]* **A former county employee** who receives a refund of his or her buyback may reapply to serve as a special consultant in the future.

*AUTHORITY: section 50.1032, RSMo Supp. [1997] **1999**. Original rule filed Nov. 26, 1996, effective June 30, 1997. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Amended: Filed March 17, 2000.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.080 Changes in Buyback When a Retiree Returns to Employment with the County. This rule clarified benefit payments when a retired person returned to employment.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because it is superseded by other rules and because, with certain exceptions, members are no longer required to purchase prior service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED RESCISSION

16 CSR 50-3.090 Early Buyback of Prior Creditable Service. This rule explained the process for handling early buyback of prior service.

PURPOSE: There were significant legislative changes to sections 50.1000 to 50.1300, RSMo, which sets forth the statutory framework for the County Employees' Retirement Fund, in the 1999 legislative session. This rule is being rescinded because, with certain exceptions, members are no longer required to buy back prior creditable service.

AUTHORITY: section 50.1032, RSMo Supp. 1997. Original rule filed Sept. 17, 1998, effective March 30, 1999. Rescinded: Filed March 17, 2000.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the County Employees' Retirement Fund, P.O. Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 6—Workers' Compensation and Employer's Liability

PROPOSED AMENDMENT

20 CSR 500-6.700 *[Premium Discounts for Using Managed Care Programs]* ***Procedures Associated With Workers' Compensation Managed Care Organizations***. The department is

amending the title of the rule, deleting section (1)–(9), adding sections (1)–(23) and replacing the exhibits that follow this rule.

PURPOSE: The proposed amendment updates this regulation to implement section 287.135, RSMo.

[(1) Upon issuance or renewal of a Workers' Compensation insurance policy, there shall be a reduction in the total premium charged to an employer for the policy for the first three (3) years during which the employer contracts with a managed health care system which has met the certification requirements of this rule and which serves the geographic area in which the employer is located. The premium reduction shall be five percent (5%) of the total premium which would otherwise be charged to the employer for each of the three (3) initial policy years under the certified managed care system. An insurer may require the employer to notify it of the employer's intent to contract with certified managed care system and to execute any such contract, prior to the issue date or renewal date of the policy, before granting the reduction. This arrangement shall be evidenced by the following documents:

(A) An endorsement to the Workers' Compensation policy setting forth the use of the certified managed care system and the extension of the five percent (5%) reduction in premium. The endorsement may include provisions on the effect of the employer's use of providers outside the terms of the managed care agreement;

(B) A contract between the certified managed care system and the employer specifying the terms and conditions associated with the use of the managed care system, including the employer's agreement that the use of the organization is the free exercise of the employer's right to choose a health care provider under section 287.140, RSMo;

(C) A certification of a managed care utilization form to be given to the employer's insurer documenting the existence of the contract specified in subsection (1)(B), as set forth in Exhibit II of this rule; and

(D) A Workers' Compensation insurer and a certified managed care system may also enter into an agreement specifying the terms and conditions associated with the use of the managed care system.

(2) For purposes of this rule, the term certified managed care system or system shall mean medical care cost containment arrangements such as preferred provider organizations (PPOs), health maintenance organizations (HMOs) and other direct employer/provider arrangements designed to provide incentives to medical care providers to manage the cost and utilization of care associated with claims covered by Workers' Compensation insurance, which have been approved by the department. The approval criteria for PPO arrangements are set forth in section (3) of this rule. The approval criteria for non-PPO arrangements shall be developed under section (8) of this rule.

(3) For purposes of this rule, the term Workers' Compensation preferred provider organization (WC/PPO) shall mean a health care plan designed to coordinate employee care and control and contain costs for medical and rehabilitative services associated with Missouri Workers' Compensation claims through the use of special provider networks, utilization review and case management procedures. In order to be certified, a WC/PPO shall meet the following requirements:

(A) The WC/PPO shall contract with member health care providers who are authorized to provide health care services in this state by the appropriate licensing authorities;

(B) Regarding contract requirements for medical and rehabilitative services, the WC/PPO shall—

1. Provide for convenient access to the following types of providers in one (1) or more Missouri counties or cities not within a county:

A. Primary care physicians;

B. Subspecialty physicians;

C. Rehabilitation centers; and

D. Hospitals;

2. Provide for convenient access to primary care clinics which are specialized in providing occupational medical services;

3. Employ a medical director who is board-certified in occupational medicine; and

4. Possess the capability for progressive rehabilitation services, including, but not limited to:

A. Functional, objective capacity evaluations;

B. Psychological testing; and

C. Work hardening;

(C) Regarding additional WC/PPO contract requirements, the WC/PPO shall—

1. Provide employers with job-site presentations or other presentations regarding how to make proper use of the managed care services of the organization;

2. Base charges on negotiated rates of reimbursement to providers for the services specified in paragraph (3)(B)1. comparable to the best group medical plans in the geographic market area served, including provisions for basing inpatient services charges on diagnosis-related group (DRG) rates;

3. Include the prepricing of claims;

4. Provide monthly reports, on a claim-by-claim basis, specifying customary charges, charges allowed under the WC/PPO contract and the resulting savings, if any; and

5. Provide for the external management and oversight from the initial date of injury by a nonhealth care provider of the health care provider's rendition of medical care in all cases; and

(D) Be in addition, under the management and control of officers and directors who are competent to manage the WC/PPO-managed health care operations, its finances, its compliance with agreements between itself and insurers or employers, or both, and its compliance with any applicable laws of Missouri.

(4) Certification Procedure.

(A) For purposes of obtaining the department's certification of a WC/PPO, the organization shall provide the department with the following materials:

1. Copies of any PPO/employer and PPO/insurer contracts to be used;

2. A general diagram of the WC/PPO's organizational structure;

3. A listing of the WC/PPO's officers and directors;

4. The WC/PPO's most recently audited financial report;

5. A thorough description of the WC/PPO's experience with the management of health care costs associated with Workers' Compensation claims and with other health care claims;

6. The geographic area, by county, the WC/PPO plans to serve;

7. A copy of the certificate of the board-certified medical director;

8. A complete list of all primary care physicians, subspecialist physicians, rehabilitation centers, hospitals and work hardening centers to be employed by the organization;

9. The estimated savings to employers and insurers from the use of the organization;

10. The outline of the operation of the WC/PPO to be provided to employers explaining their rights and responsibilities; and

11. Any other materials requested by the director.

(B) The materials specified in subsection (4)(A) shall be retained by the department. Any significant changes to the nature of the WC/PPO's operations as reflected in these materials shall be reported to the department, but these reports need not be made more than twice a year, as measured from the date of the granting of any certification.

(C) The department shall review these documents and grant certification, on the form contained in Exhibit I of this rule, to those WC/PPOs deemed to meet the criteria set forth in this rule. Any departmental decision to deny certification shall be accompanied by a written explanation by the department of the reasons for denial.

(D) The department may suspend or revoke the certification of a WC/PPO at any time it establishes that the criteria set forth in this rule are no longer being met. Any such organization may request a hearing before the director on that suspension or revocation.

(5) Insurers writing Workers' Compensation insurance in Missouri may contract with a certified managed care system. This contract may cover all employers insured by the insurer in the state, any class or subclass of employers, any employers located in a particular geographic region, or on any other basis which does not result in unfair discrimination under section 375.936(11), RSMo. Any employers who participate in this arrangement shall execute the contract required in subsection (1)(B) of this rule. For purposes of encouraging its insured employers to use a managed care system with which it has contracted, an insurer may offer premium reductions in excess of those required in section (1) of this rule. Nothing shall preclude an insurer from discussing the relative merits of different managed care systems with its insureds.

(6) Where an insurer has not contracted with a certified managed care system in a given geographic region, but that a system does operate in that region, upon a request by an insured employer, the insurer shall provide the insured the premium reduction specified in section (1) of this rule so long as the certified system is willing to provide health care services to the employer. The insurer, however, may apply the five percent (5%) premium reduction specified in section (1) only to that portion of the employer's operations occurring in the geographic regions served by the certified system.

(7) Nothing contained in this rule shall be interpreted as precluding an employer from taking advantage of other noncertified managed care options at his/her own expense, particularly where the employer's operations are located outside the geographic territory of a certified managed care system. The use of this system, however, shall not entitle the employer to a premium reduction by its insurer.

(8) The director shall establish an informal task force for fostering the widest possible use of managed care systems in Missouri in relation to Workers' Compensation insurance. The task force may consist of volunteers representing insurers, managed care providers, employers and other interested parties. The task force will assist the department in developing approval criteria for approving additional managed care systems in Missouri. The panel will assist the director in developing approval criteria for PPOs that do not meet the criteria of section (3) of this rule, and of other managed care systems such as HMOs and direct employer/provider contracts, and the appropriate level of premium discount to be associated with these systems. They also may assist in the development of performance standards to measure the effectiveness of all managed care systems associated with Workers' Compensation insurance. All meetings of the advisory panel will be subject to the state's open meetings law.

(9) An insurer need provide a premium discount to an insured employer only for a three (3)-year period, after which time any reduction in the employer's premium as a result of the use of managed care services shall be reflected in the employer's experience modification factor. An employer shall not be entitled to more than three (3) years of specified premium reductions by reason of changing insurers, changing managed care systems or changing the ownership of the employer. Change of ownership rules regarding employers approved by the department concerning Workers' Compensation shall apply to these cases.]

(1) Definitions. Under this regulation, unless the context clearly requires otherwise:

(A) Access fee means the percentage of savings off the usual and customary charges for medical or rehabilitative services charged by a managed care organization (MCO) as reimbursement for access to its discounted provider network;

(B) Bill re-pricing means a system for re-pricing charges for medical services to conform to levels contractually agreed to by health care providers, facilities and hospitals and through which discounted medical services are obtained;

(C) Case management means a collaborative process by which licensed nurses experienced in the delivery of medical care under the workers' compensation system plan, coordinate, monitor and evaluate the delivery of that level of health care treatment which is necessary to assist an injured employee in reaching prompt maximum medical improvement, following prescribed medical treatment plans, and, achieving, where possible, the prompt and appropriate return to work. Case management includes "on-site case management" and "telephonic case management";

(D) Cost savings analysis means a documentation of savings achieved through reduction of medical fees and/or coordination of utilization review management techniques and/or savings achieved from an early return to work;

(E) CPT-4 Code means a code contained in the *Current Procedural Terminology* published by the American Medical Association;

(F) Department means the Missouri Department of Insurance;

(G) Hospital bill auditing means a service designed to review the accuracy and applicability of hospital charges as well as to evaluate the medical necessity of all services and treatment rendered;

(H) Insurer means any person or entity defined under sections 375.932 or 375.1002, RSMo, authorized to provide workers' compensation insurance in Missouri. The term shall include any employees, agents, third party administrators (TPAs) or others acting on behalf of such insurers;

(I) Managed care organization (MCO) means an organization, such as a preferred provider organization (PPO), a health

maintenance organization (HMO) or other, direct employer/provider arrangements, designed to provide the appropriate procedures and incentives to medical providers to manage the cost and utilization of care associated with claims covered by workers' compensation insurance;

(J) On-site case management means case management performed in person by the case manager as the location requires;

(K) Payor means an insurer or TPA responsible for paying workers' compensation-related claim, including a bill for the fees of an MCO required to be reimbursed under this regulation;

(L) Precertification means the process of reviewing planned non-emergency medical care to assure said care conforms with an MCO's current managed care procedures;

(M) Provider bill auditing means a computer assisted retrospective service which verifies the accuracy and applicability of provider charges, their conformity with usual and customary charges and their conformity with any discounts from usual and customary charges or other adjustments negotiated between the provider and the MCO. Provider bill auditing also verifies causal relationships between injury and treatment, the necessity of treatment and the accuracy of medical bills prior to recommending payment;

(N) Qualified actuary means a fellow or member of the Casualty Actuarial Society;

(O) Telephonic case management means case management conducted by telephone or facsimile machine;

(P) TPA means an administrator as defined under sections 376.1075 to 376.1095, RSMo;

(Q) Utilization review (UR) means a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, precertification, concurrent review, discharge planning or retrospective review. For purposes of this regulation, utilization review shall not include case management;

(R) Usual and customary fee receipt, as required under subsection 3 of section 287.140, RSMo, means a charge by a health care provider for a treatment or service compensable under the Workers' Compensation Law which is no greater than the fee received by the provider when the payor for such service is a private individual or a private health insurance carrier.

(2) The Role of MCOs in Managing the Cost and Utilization of Medical Care.

(A) Section 287.135, RSMo provides for the certification by the department of MCOs designed to provide incentives to medical care providers to manage the cost and use of care associated with claims covered by workers' compensation insurance. In addition to assisting in the management and use of medical care, MCOs should also be able to render the following benefits to the workers' compensation system:

1. To injured employees, prompt and appropriate medical care through a system which coordinates and delivers that care so that the employee fully understands the process;

2. To employers, cost-effective medical care to their injured employees which helps reduce workers' compensation losses in the aggregate as well as the experience modifications of experience-rated employers in particular, which helps to avoid unnecessary litigation, and which helps return employees to work in an appropriate manner.

(B) Under this regulation, certain fees charged by MCOs for services provided in connection with the care given to an injured employee shall be reimbursed by the workers' compensation insurer of the injured employee's employer, provided the MCO is certified by the department under the provisions of this regulation. This certification is required in order to help assure that an MCO is capable both of providing an adequate system of cost-effective care and of properly coordinating and integrating its systems with those of their client-employers' workers' compensation insurers regarding such matters as claim reporting, claim handling, utilization review, case management and billing.

(C) Where problems in achieving the goals set forth in this section are perceived, they should be reported to the department as specified in section (21) below.

(3) The Employer's Right to Choose an MCO; an Insurer's Right to Discuss that Choice.

(A) Under subsection (10) of section 287.140, RSMo, an employer has the right to select the licensed treating physician or other health care provider to provide medical or rehabilitative care to an employee who has been injured by a work-related injury or occupational disease compensable under Missouri's Workers' Compensation Law. An employer may exercise this right to select a treating physician or other health care provider by means of a contract with an MCO certified by the department under which the employer shall direct any injured employees to the MCO's providers for treatment.

(B) Under subsection (1) of section 287.140, RSMo, an employer is required to provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after an injury or disability, to cure and relieve the effects of the injury. An employer may fulfill its responsibility to provide such ancillary services as are authorized under that statute, such as case management, by means of a contract with an MCO certified by the department, provided however, that the MCO coordinates such services with the employer's insurer.

(C) An employer shall indicate its selection of an MCO by signing the MCO Disclosure/Participation Agreement form set forth as Exhibit B of this regulation, which shall be delivered to the employer's insurer as required under section (11) of this regulation.

(D) An employer may cancel the selection of an MCO or change from one MCO to another. The MCO selection listed on the MCO Disclosure/Participation Agreement shall be deemed to remain in effect until canceled according to the provisions of section (11). An employer shall select only one MCO at a time for a given geographic area of the state.

(E) The MCO shall provide the employer's insurer with its current provider list unless the list is available through the department's web site under section (19) of this regulation.

(F) The employer's insurer is permitted to discuss the appropriateness of the treating physician or other health care provider selected by the employer with that employer, provided however, that the insurer is prohibited from directing or mandating the choice of an appropriate physician or other health care provider; in the event of a difference of opinion on such a choice, the decision of the employer shall prevail. The prohibition on an insurer directing or mandating the choice of a treating health care provider extends to the selection by the employer of an MCO; an insurer is prohibited from requiring that an employer send an injured employee to the providers of a particular MCO for treatment.

(4) Classifications of MCOs.

(A) Workers' compensation MCOs, as defined in section (1) of this regulation may operate in this state with or without certification by the department, provided, however, that only those MCOs which have been certified by the department may demand the reimbursement of fees under the provisions of section (13) of this regulation.

(B) Workers' compensation MCOs may be affiliated with various other types of organizations. Due to the relevance of

such affiliations on the philosophies, priorities and methodologies of an MCO, such affiliations shall be set forth by any MCO seeking certification under this regulation in its request for certification. After review, the department shall designate the MCO as being one of the following classifications:

1. An insurer-based MCO, which is owned and operated by an insurance company;

2. A health-care-based MCO, which is owned and operated by a health care provider or a health care system;

3. An independent MCO, which is owned and operated by an entity not affiliated with an insurance company or health care provider or system;

4. A hybrid MCO, which is owned and operated by a combination of the entities set forth in paragraphs (4)(B)1.–3. above.

(C) Insurance companies may develop their own MCOs or contract with particular MCOs to provide managed care services to their insured employers, provided however that if an insured employer has chosen an MCO other than one utilized by the insurer, the insurer must pay the reasonable fees of that other MCO, if certified, as authorized under section (13) of this regulation, except to the extent the insurer is exempted from certain such payments under section (14) of this regulation.

(5) Mandatory Components of a Department-Certified MCO. In order to be certified by the department and retain that certification, a workers' compensation MCO shall possess the following characteristics:

(A) A written organizational philosophy which has as a primary goal the use of appropriate procedures and incentives to medical providers to manage the cost and utilization of care associated with claims covered by workers' compensation insurance, and which is managed in Missouri and elsewhere by personnel with experience at successfully achieving this goal;

(B) A network of appropriately-licensed health care providers who have been selected and retained through a provider selection and peer review process as being willing and experienced at providing prompt medical care for work-related injuries and illnesses. The network shall, at a minimum, possess the following types of providers:

1. Medical doctors and surgeons;

2. Orthopedic surgeons;

3. Neurologists and neurosurgeons;

4. Physical and occupational therapists;

5. Psychologists and psychiatrists;

6. Diagnostic, laboratory and radiology services;

7. Hospital, outpatient and emergency care services; and

8. Plastic surgeons;

(C) A system of both appropriately-licensed and experienced personnel and facilities to provide, either in a hospital setting or through stand-alone centers, rehabilitation services as are appropriate to the individual injured employee. The MCO's rehabilitative services shall at a minimum include the following:

1. Comprehensive in-patient rehabilitation:

2. Chronic pain management programs;

3. Out-patient rehabilitation programs; and

4. Work-hardening programs;

(D) The ability to provide a system of appropriately-licensed and experienced personnel to provide the following types of ancillary managed care services in accordance with protocols established by the MCO, as modified by any particular agreements with individual employers or insurers. Unbundling of these services is permissible and may be necessary in order to coordinate and integrate the systems of the MCO with those of particular insurers:

1. Precertification and prospective utilization review by licensed registered nurses;

2. Concurrent utilization review by licensed registered nurses;

3. Telephonic case management by licensed registered nurses;

4. On-site case management by licensed registered nurses;

5. Retrospective utilization review by licensed registered nurses;

6. Provider bill auditing;

7. Hospital bill auditing;

8. Bill re-pricing;

9. Cost savings analysis;

10. Educational services for employers;

11. A continuing education program for network providers and other personnel; and

12. Data collection and reporting capabilities under section (18) of this regulation;

(E) A system of coordinating medical care, rehabilitation care and ancillary managed care services to manage the cost and utilization of care associated with claims covered by workers' compensation insurance while achieving prompt and appropriate maximum medical improvement and, where possible, prompt and appropriate return to work, under the direction of a medical director experienced with the Missouri workers' compensation system;

(F) Convenient access to the medical care and rehabilitative care services available through the MCO. Such convenient access shall include:

1. Telephonic access to the MCO for information and suggested referrals to area providers;

2. Twenty-four (24) hour emergency care;

3. Examinations and or evaluations within forty-eight (48) hours of request;

4. Other services accessible at reasonable times to all injured employees;

5. An adequate number of network providers for convenient access at any given location, with protocols for accessing non-network providers where necessary; and

6. MCO service areas which require an injured employee to cross no more than one county boundary to receive treatment, except to the extent the MCO will absorb any travel expenses, or to the extent such travel is authorized by the insurer;

(G) A program to encourage network providers and other MCO medical personnel to receive continuing education annually on relevant topics related to occupational medicine, workers' compensation insurance, and the management of the care thereof, including such possible topics as:

1. Developments in occupational medicine;

2. Trends in the causes of work-related injuries or illnesses;

3. Techniques for avoiding common workplace hazards;

4. Options for return-to-work decision making;

5. Vocational rehabilitation;

6. Reporting requirements and other special provider requirements under the system;

7. Required treatment parameters;

8. Determining disability ratings;

9. Determining maximum medical improvement;

10. Permanent partial disability management;

11. Fraudulent claims;

12. Cases which have led to disputes;

13. Statutory, regulatory and case law developments; and

14. Developments in the managed care market;

(H) A billing procedure which conforms to the requirements of section (16) of this regulation;

(I) A system for analyzing the savings realized by employers utilizing an MCO, both in the aggregate and for specific employers;

(J) A data collection and reporting system which conforms to the requirements of section (18) of this regulation;

(K) An internal dispute resolution procedure which informs participating employees of how, where and with whom to file a grievance and has grievances reviewed by someone within the organization of the MCO not involved in the underlying elements of the dispute, who promptly investigates the surrounding circumstances and provides a written explanation to the employee of the outcome of the investigation and recommendations for resolving the dispute, including notification of any right of appeal to the department or, where the issue relates to the appropriateness or necessity of medical treatment, to the Division of Workers' Compensation.

(6) Certification Process.

(A) For purposes of obtaining the department's certification of an MCO, the organization shall provide the department with the following materials:

1. A designation of the classification of the MCO under section (4) of this regulation, with an explanation if necessary;

2. A general diagram of the MCO's organizational structure;

3. A listing of the MCO's officers and directors;

4. A thorough description of the MCO's experience with the management of health care costs associated with workers' compensation claims and with other health care claims, particularly of those persons who will be associated with the Missouri MCO's operations;

5. A description of how the quantity and quality of care will be managed by the MCO;

6. The MCO's most recently audited financial report, if any;

7. The geographic area, by county, the MCO plans to serve;

8. A copy of the Missouri certifications for any UR firms which will be used by the MCO;

9. A copy of the current medical license of the MCO's medical director, as well as any relevant board certifications, such as a board certification for occupational medicine, as well as similar documentation for the Missouri-based assistant medical director, should the medical director not be a Missouri resident. Where one or both of the above parties lacks board certification in occupational medicine, the MCO shall also provide a copy of that provider's curriculum vitae describing the provider's prior experience, including prior experience with the management of workers' compensation injuries and illnesses;

10. An explanation of the MCO's provider selection procedures and its peer review procedures;

11. A complete list of all primary care physicians, subspecialist physicians, rehabilitation centers, hospitals and work hardening centers to be employed by the organization, divided by county or city not within a county;

12. An explanation of the compensation arrangement(s) the MCO plans to use to fund its operations;

13. A description of any discounts applied to the usual and customary fee receipts of network providers, or categories of providers, negotiated by the MCO, as well as any other arrangements designed to manage the cost or use of care;

14. Copies of any MCO/provider, MCO/employer and MCO/insurer agreements to be used which shall include the required provisions set forth in sections (8), (9) and (14), respectively, of this regulation;

15. An analysis of the estimated savings to employers and insurers resulting from the use of the MCO, which may include estimates on savings due to reduced indemnity losses as well as reduced medical losses. The analysis shall, at a minimum, include estimates of savings off billed charges, savings off usual and customary fee receipts, average cost per claim and average number of days lost due to illness or injury. The analysis shall be signed by a qualified actuary, who shall also include a brief description of his or her prior experience with workers' compensation insurance and with managed care organizations, as well as an explanation of the methodology by which the above estimates were calculated. In providing this analysis, the actuary shall rely on the Actuarial Standards of Practice No. 8 and No. 16 adopted by the Actuarial Standards Board, in addition to any other relevant standards of practice;

16. The outline of the operation of the MCO to be provided to employers explaining their rights and responsibilities;

17. An outline of the MCO's dispute resolution procedures;

18. Copies of all informational materials required under section (10) of this regulation;

19. Copies of all marketing materials; and

20. Any other materials requested by the director.

(B) The materials required under subsection (6)(A) shall be collected in the order set forth above, in a main binder, separated by appropriately-labeled dividers, provided however, that any materials the MCO considers to be confidential in nature, such as MCO/provider reimbursement information, shall be placed in a supplementary binder, with appropriate cross references in the main binder where the confidential materials would otherwise have been placed. Confidential materials shall be handled by the department in accordance with the provisions of regulation 20 CSR 10-2.400, although any MCO which files materials labeled as confidential may be contacted by the department and discouraged from so filing.

(C) The materials specified in this section shall be retained by the department. Any significant changes to the nature of the MCO's operations as reflected in these materials shall be reported to the department, but these reports need not be made more than twice a year, as measured from the date of the granting of any certification, except for the MCO's list of providers for the department's web site, which shall be updated at least quarterly, and except for marketing materials, which shall be delivered to the department prior to their use.

(D) The department shall review these documents and grant certification, on the form contained in Exhibit A of this regulation, to those MCOs deemed to meet the criteria set forth in this regulation. Any departmental decision to deny certification shall be accompanied by a written explanation by the department of the reasons for denial.

(E) The department shall designate the geographic extent to which a certified MCO's certification applies, for purposes of reimbursement under section (13) of this regulation. As part of the certification process, the MCO shall provide the department with a series of maps indicating the location of its providers, as follows:

1. The department shall provide a map of the state of Missouri showing the names and boundaries of each county;

2. The MCO shall make duplicates of said map and shall label successive copies for "Primary Care Physicians," "Specialists," "Hospitals," and "Rehabilitation Centers";

3. The MCO shall, on the successive maps, place the number of providers of the type indicated on the label within the boundaries of each of the counties where said providers are located;

4. The department shall review the completed provider maps and grant a service area to the MCO which includes every county wherein all available types of providers are present in the network, as well as any counties bordering said counties; and

5. The MCO's service area shall be listed by county in the current list of certified MCO's, which is to be maintained by the department under section 287.135, RSMo, and provided to the Division of Workers' Compensation.

(7) Criteria for Establishing the Reasonableness of MCO Fees.

(A) No insurer shall be required to reimburse a fee charged by a department-certified MCO unless the fee is reasonable in relation to both the managed care services provided and to the savings which result from those services.

(B) Where the type of MCO fee is a standard listed fee under paragraph (9)(B)6. of this regulation, there shall be a rebuttable presumption that the fee is reasonable under subsection (A) above if:

1. It is a fee for a service the insurer has agreed the MCO shall perform, as authorized under an MCO/Insurer Coordination Form (Exhibit C), executed pursuant to the coordination and integration provisions of section (12) of this regulation; and

2. The fee for the service is the same as that indicated on the MCO's standard fee list under paragraph (9)(B)6. or has been agreed to by other insurers under alternative fee arrangements authorized under section (14).

(C) Where the type of MCO fee is an access fee, there shall be a rebuttable presumption that the access fee is reasonable under subsection (A) above if it is less than or equal to twenty-five percent (25%) of the difference between the provider's usual and customary fee receipt for the service or treatment in question and the amount the provider has agreed to accept under his contract with the MCO.

(D) Where a particular MCO fee charged by the MCO exceeds an amount deemed reasonable under subsections (B) or (C) above, an insurer may satisfy its reimbursement obligations under section (13) of this regulation by paying an amount which conforms to those subsections.

(E) An MCO may accept partial payment of an amount tendered by an insurer without prejudice to the MCO's right to the full reimbursement authorized under this regulation.

(F) Where a dispute between an insurer and an MCO regarding an access fee is based on a question regarding the amount of the health care provider's underlying usual and customary fee receipts, the MCO may establish the provider's usual and customary fee receipts by means of an affidavit from the provider or a duly authorized agent of the provider attesting to the provider's ten (10) most recent fee receipts for the service in question from payors who are private individuals and/or private health insurers. The affidavit shall list the names of the payors, the dates of payment and amounts received. The provider's usual and customary fee receipt will be deemed to be an average of these ten (10) most recent fee receipts.

(G) An insurer may produce evidence to rebut the presumptions of subsections (B) and (C) above by showing that the MCO fee in question is unreasonable in relation to either the managed care services provided or to the savings which result from those. An MCO may produce evidence in support of said presumptions. Such evidence may include information regarding:

1. The extent to which the medical case involved or required oversight and coordination by the MCO;

2. The fees normally paid by the insurer to other MCOs;

3. The fees normally charged by the MCO to other insurers, and to TPAs, self-insurers and individual employers;

4. The fees normally paid by other insurers to MCOs;

5. The fees normally charged by other MCOs to insurers, TPAs, self-insurers and individual employers;

6. What the medical or rehabilitative provider has agreed to accept from the insurer under any agreements other than the MCO agreement in question;

7. The dollar amount of the MCO fee being sought compared to the dollar amount of the underlying usual and customary fee receipt of the provider;

8. What an independent database indicates is a usual and customary charge;

9. What an independent database indicates is a usual and customary fee receipt;

10. What a governmental database indicates is a usual and customary charge;

11. What a governmental database indicates is a usual and customary fee receipt;

12. The DRG, RBRVS or APC amount authorized for the procedure in question by Medicare;

13. What has been determined to be a reasonable provider fee by the Division of Workers' Compensation under section 287.140.3, RSMo and regulation 8 CSR 50-2.030 for the medical procedure upon which the MCO fee dispute is based, where such a determination has been made; or

14. What the department has determined to be a reasonable fee in prior disputes of a similar nature.

(H) Any disputes regarding MCO fees presented to the department under section (21) shall be handled in an advisory manner by the department, after providing the parties written notice of the dispute and notice of the opposing party's allegations. The department will provide the parties with a written advisory opinion of its conclusions, which shall be subject to *de novo* review by a court of competent jurisdiction.

(8) Mandatory Elements of the MCO/Provider Contracts.

(A) A department-certified MCO shall execute a written agreement with each participating health care provider setting forth the terms of the relationship between the MCO and the provider.

(B) In addition to any other provisions, such written agreements shall include the following provisions:

1. An agreement by the provider to accept as reimbursement for medical services provided to an injured employee of an employer under contract with that MCO a fee based on a discount applied to the provider's usual and customary fee receipt for that service, or provisions which have this effect;

2. An agreement to request reimbursement within six (6) months of the date for any medical services provided to an injured employee of an employer under contract with that MCO;

3. An agreement by the provider to cooperate with the medical direction and control of the employer and the MCO; and

4. An agreement by the provider to send any medical bills for medical services provided to an injured employee of an employer under contract with that MCO to the MCO so that the MCO may comply with the standardized billing requirements of section (16) of this regulation, rather than the provider sending the bill directly to the payor for payment, unless authorized to do so by the insurer.

(9) Mandatory Elements of the Employer/MCO Contract.

(A) A department-certified MCO shall execute a written agreement with each participating employer setting forth the terms of the relationship between the MCO and the employer and the anticipated period of the agreement, which shall include the MCO Disclosure/Participation form set forth at Exhibit B of this regulation.

(B) In addition to any other provisions, such written agreements shall include the following provisions:

1. That the employer and the MCO have entered into an agreement under which the medical and rehabilitative treatments for all injuries to the employer's employees compensable under the Missouri Workers' Compensation Law shall, at the employer's direction and control, in accordance with section 287.140, RSMo, be directed to the MCO for treatment;

2. That the employer shall contract with only one MCO at a time for a given geographic area;

3. That the employer and the MCO have selected a named contact person to be responsible for carrying out their respective responsibilities under the agreement. Should either the employer or the MCO change their designated contact person, they shall notify the other of the change as soon as is practical. The relevant information on said contact persons shall be entered on the Disclosure/Participation Agreement set forth as Exhibit B to this regulation;

4. That either party may terminate this agreement upon written notice to the other;

5. That nothing in the agreement shall alter the employer's contractual duty under its workers' compensation insurance policy to notify its insurer of the occurrence of an injury;

6. The terms of the MCO's standard discounting arrangement with its providers and a fee disclosure list attached to the Disclosure/Participation Agreement form which lists any fees associated with the following activities and whether they will be charged to the employer or the employer's insurer:

A. Precertification;
B. Prospective utilization review;
C. Concurrent utilization review;
D. Telephonic case management;
E. On-site case management;
F. Retrospective utilization review;
G. Provider bill auditing;
H. Hospital bill auditing;
I. Bill re-pricing;
J. Cost savings analysis;
K. Educational services for employers;
L. Continuing education for network providers and other personnel; and
M. Data collection and reporting services; and

7. That an employer's insurer retains the right to review and contest the compensability, reasonableness or appropriateness of provider services.

(10) Mandatory Disclosure of Information to the Employer's Employees.

(A) Each department-certified MCO shall make the following materials available to participating employers:

1. A general statement on the purpose of the MCO and the need for coordination and communication regarding workplace injuries or illnesses;

2. General access, emergency access and after-hours access procedures;

3. The MCO's precertification procedures for non-emergency cases;

4. A current list of network providers for the area in question; and

5. General information of the availability of the MCO's services on safety, rehabilitation and return to work.

(B) An employer shall have the responsibility to make such materials available to its employees.

(11) Notification Requirements.

(A) When an employer has selected a department-certified MCO, the employer's insurer shall be notified of that fact by the MCO, which shall mail a copy of the executed MCO Disclosure/Participation Agreement, set forth at Exhibit B of this regulation, to that insurer. An insurer receiving such an MCO Disclosure/Participation notice shall circulate whatever internal notification is necessary to assure that the insurer's underwriting, claims, accounting and customer service personnel and systems duly note the existence of the employer/MCO relationship in its records, to allow for efficient coordination with the MCO in the future, should the need arise.

(B) An MCO shall send to the employer's insurer any diagnosis, medical history, treatment plan, prognosis, return-to-work date or other medically- or rehabilitation-related information or documents it receives in the course of the treatment of an injured employee within twenty-four (24) hours of the receipt of such materials. The records of the MCO should record the fact of the receipt of such information, describe the information, the date such information is sent to the insurer and the method by which it was sent. The MCO may retain a copy of such information if it chooses.

(C) An employer may cancel its selection of an MCO by notifying the MCO and the employer's insurer of the cancellation in writing, provided however, that where the employer has decided to replace one MCO with another MCO, the new MCO shall mail a copy of the executed MCO Disclosure/Participation Agreement, set forth at Exhibit B of this regulation, to the prior MCO and the insurer. This notice shall become effective on the date of mailing, provided, however, that the prior MCO shall still be entitled to reimbursement for authorized MCO fees for all services rendered prior to its receipt of the new MCO Disclosure/Participation notice.

(D) While an insurer is prohibited from directing or mandating the use by an employer of a particular MCO, the insurer may discuss the employer's choice of an MCO with the employer. Any such discussion or communication shall be accompanied by a copy of the MCO Disclosure/Participation Agreement, which includes notice of this prohibition and the department's recommended considerations for any employer seeking to choose a new or replacement MCO.

(12) Coordination and Integration. An MCO shall be deemed to have coordinated and integrated its internal operations with those of the insurer whenever:

(A) The MCO has made contact with an appropriate representative of the insurer or the insurer's TPA at the contact number recorded in the department's list of insurer contacts maintained under section (19) of this regulation, as soon as practical after the insured employer has entered into a contract with the MCO to provide workers' compensation managed care services. The MCO shall document the date, time and contact person with whom the contact is made in its records.

(B) The MCO agrees to coordinate its medical management decisions with those of the insurer, including the avoidance incurring duplicate costs associated with those elements of managed care which the insurer provides, such as case management and utilization review, and has executed a copy of the MCO/Insurer Coordination form set forth at Exhibit C of this regulation memorializing this agreement, one copy of which shall be retained in the MCO's records, one copy of which shall be sent to the insurer and one copy of which shall be sent to the insured employer.

(C) The MCO has conformed to the standardized billing procedures under section (16) of this regulation.

(13) Reimbursement of MCO Fees by Insurers.

(A) For an insurer to be required under this regulation to reimburse a fee charged by an MCO, that fee must:

1. Relate to a medical claim that has previously been reported to the insurer by the employer;

2. Relate to an injury or illness which is compensable under Chapter 287, RSMo;

3. Be from an MCO which, on the date of the bill charge, is fully certified under section (6) of this regulation;

4. Be from an MCO which is a signed agreement with the injured employee's employer, as documented in a MCO Disclosure/Participation Form set forth in Exhibit B of this regulation;

5. Relate to an employer who has a contract with the insurer for workers' compensation insurance that covers the injury or illness;

6. Be from an MCO that has coordinated and integrated its systems with those of the insurer under section (12) of this regulation;

7. Relate to a medically necessary procedure or a determination of medical necessity; and

8. Be reasonable under section (7) of this regulation.

(B) Where the insurer and the MCO have a contractual agreement regarding fees and integration and coordination under section (14) of this regulation, reimbursement of the MCO shall be governed by that arrangement.

(C) If made in accordance with this regulation, an insurer shall reimburse a department-certified MCO's bill. The insurer shall not ignore an MCO billing invoice, access fees or discount, nor shall it apply its own discount to the amount charged by the provider for the service in question.

(D) If the insurer disputes the MCO bill for its fee, the insurer shall notify the MCO in writing of that disagreement and the basis for that disagreement. The insurer may tender and the MCO may accept partial payment of the MCO fee without prejudice to the rights of either party to contest the fee under this regulation.

(14) Agreements Between Insurers and MCOs.

(A) Charges associated with MCO-related activities shall be reimbursed by insurers if they meet the requirements of this regulation, except where the insurer and the MCO have entered into a voluntary agreement under subsection 3 of section 287.135, RSMo, whereby the parties control how to accomplish reimbursement, coordination and integration in a manner different than as provided for in sections (12) and (13) of this regulation. Where such an agreement is in place, it shall determine the manner by which that particular insurer reimburses that particular MCO. Such an agreement shall not alter the manner in which the insurer reimburses other MCOs which have been selected by the insurer's insured employers who are not party to such a voluntary agreement; those MCOs shall be reimbursed according to the provisions of sections (12) and (13) of this regulation.

(B) An insurer that has entered into an agreement with an MCO under subsection (A) of this section shall execute the Disclosure/Participation Agreement at Exhibit B of this regulation with every insured employer who chooses to use the insurer's MCO.

(15) Premium Credits and Debits for an Employer's Use of an MCO.

(A) Insurers shall submit their schedule rating plans to the department for approval. Insurers seeking to grant differential schedule rating credits or debits to employers depending on which MCOs they select shall first receive the approval of the department. Information supporting the proposed ratings, including actuarial support for such ratings, shall be filed with the department in accordance with sections 287.930 to 287.975, RSMo. Any credits or debits granted in absence of such a filing and approval shall be deemed unfairly discriminatory. In providing information under this subsection, an insurer may include whatever non-actuarial information it considers relevant, including information on any differential medical outcomes produced by different medical providers or different MCOs.

(B) If approved under subsection (15)(A) above, an insurer's schedule rating plan may permit an adjustment to or imposition of different schedule credits or debits for an employer who changes from one MCO to another during the policy period, provided such a contingency is already authorized by an endorsement to the employer's workers' compensation policy which has been approved for use by the department.

(16) Standardized MCO Billing Procedures.

(A) Department-certified MCOs shall attach or include as a minimum as part of any bill invoice to an insurer for MCO services associated with work-related illnesses or injuries the following information:

1. MCO name;

2. MCO address;

3. MCO telephone number and facsimile number;

4. MCO billing contact person name;

5. Employer name;

6. Injured employee name;

7. Employee Social Security Number (SSN);

8. Provider name;

9. Provider date-of-service; and

10. Documentation or explanation of MCO charges, which shall at a minimum include the following:

A. The date of service;

B. A description of the service;

C. The CPT or ICD-9 Code for the service;

D. The amount charged by the provider;

E. The amount allowed by the MCO (and, if appropriate whether this amount is based on a non-standard discount);

F. The saving realized by using the MCO network for that service;

G. The MCO's access fee;

H. The total MCO charges due (if more than one services is listed);

I. An invoice date; and

J. An invoice number.

(B) A department-certified MCO shall submit its bills for MCO fees under subsection (16)(A) to insurers attached to a copy of the billing form from the medical provider which complies with the provisions of regulation 20 CSR 400-8.300, such as a UB-92 form or a HCFA 1500 form. An MCO's request for reimbursement for its MCO activities such as access fees shall accompany such requests for the reimbursement of the MCO's providers, provided however, that MCO reimbursement requests and provider reimbursement requests may be separate, if requested by the insurer.

(C) MCO requests for reimbursement shall include both the MCO's charge for its service and, separately, the discounted charge for the provider's services. An insurer shall reimburse the two (2) charges separately. The provisions of this section may be modified by the insurer and the MCO by mutual agreement.

(D) Insurers are not required to reimburse for MCO services if they have not received a claim relating to injury or illness to which the services relate. In addition, insurers are not required to accept MCO requests for reimbursement which are more than six (6) months after the date on which the services were rendered, unless the delay for the request for payment was not the fault of the MCO. MCO billing systems shall retain information on the date on which the original request for payment was made.

(17) Reporting of MCO-Related Costs Under the Approved Statistical Plan.

(A) Insurers shall report any access fees paid to MCOs, or fees paid for charges under paragraph (13)(B)4. of this regulation other than for on-site case management, as "Allocated Loss Adjustment Expense (ALAE) Paid" under the Statistical Plan of the National Council on Compensation Insurance, Inc. or any similar plan approved for use in Missouri.

(B) Insurers shall report any fees for reimbursement to health care providers providing services or treatment to an injured employee not covered under subsection (17)(A) above as a medical loss under the Statistical Plan of the National Council on Compensation Insurance, Inc. or any similar plan approved for use in Missouri. This shall include any fees paid for on-site case management services.

(18) Data to Be Collected by MCOs.

(A) The following data shall be reported by each department-certified MCO to the department for each calendar year beginning June 1, 2001 by July 1, 2001 and every calendar year thereafter:

1. The estimated aggregate number of participating employers during the reporting period;

2. The aggregate provider charge for treatment for participating employees;

3. The aggregate charge for treatment actually allowed by the MCO;

4. The discount on charges realized by the use of the MCO network; and

5. The charge or access fee plus other charges collected by the MCO excluding fees to providers for treatment.

(B) Each MCO shall report said information, in a computer format specified by the department.

(19) Department Web Site to Provide List of Insurance Company Contacts for Dealing with MCO-Related Issues and List of MCO Providers.

(A) Each insurance company licensed to write workers' compensation insurance in Missouri shall provide the department with the name(s) and/or job title(s), address(es), telephone number(s), fax number(s) and E-mail address(es) of the insurer employees an MCO should contact under subsection (A) of section (11) of this regulation in order to notify the insurer of the existence of an MCO contract and to initiate the coordination of services. Such information shall be updated by the insurer as necessary to remain current and shall be reported to the department in a format determined by the department. The department shall compile such insurer contact information and shall make said information available on its web site.

(B) Each department-certified MCO shall provide the department with a current list of its providers at least quarterly. The information shall be reported to the department in a format determined by the department. The department shall compile such MCO provider and shall make said information available on its web site.

(20) Recertification Process.

(A) Any MCO which desires recertification under this regulation shall submit the materials required for certification under this regulation any time during the period following the publication of the final Order of Rulemaking regarding this regulation in the *Missouri Register* and ninety (90) days after the publication of this regulation in the Missouri *Code of State Regulations*. Once certified, the MCO shall file for recertification within thirty (30) days of the new certification anniversary date granted under this subsection.

(B) These certification materials filed under subsection (20)(A) above shall be in the form prescribed in section (6) of this regulation and shall be accompanied by a filing fee of one thousand dollars ($1,000), made payable to the Missouri Department of Insurance. The MCO shall, in a cover letter, outline any significant changes made to its previous filing. Each MCO previously certified and so filing shall remain certified until recertified or, where appropriate, decertified, in writing, by the department. The department shall decertify any MCO that has not filed for recertification within thirty (30) days of its annual anniversary date.

(C) Any certified MCO shall cooperate with any reasonable on-site inspection of the MCO's facilities requested by the department.

(D) The department may, in writing, suspend or revoke the certification of an MCO at any time it establishes the criteria set forth in this regulation are no longer being met. Any MCO so suspended or decertified may request a hearing before the director or his designee concerning that suspension or decertification.

(21) Procedures for Handling MCO-Related Complaints.

(A) Any person who feels that the requirements of this regulation are not being adhered to by an MCO, an insurer or any other person may submit their concerns or complaints to the department's Property and Casualty Section for review.

(B) If after review, the department determines that there is a violation of the regulation, it may impose such penalties under section (22) or seek such remedial measures as it determines are warranted under the circumstances.

(22) Penalties.

(A) Insurers which violate the provisions of this regulation are subject to the same penalties as exist for any other violations of the general insurance laws of the state of Missouri. The department will take into consideration the extent to which a technical violation of the insurance laws by an insurer is due in whole or in part to the actions of an MCO with which it has no contract under section (14) of this regulation.

(B) Department-certified MCOs which violate the provisions of this regulation are subject to the suspension or revocation of their certification.

(23) Effective Date. This regulation shall become effective ninety (90) days after its publication in the Missouri *Code of State Regulations*.

AUTHORITY: sections ***287.135, RSMo 1994 and 287.140*** *[287.320, RSMo Supp. 1992] and 374.045 RSMo [1986]* ***Supp. 1999****. Emergency rule filed Aug. 31, 1992, effective Nov. 1, 1992, expired Feb. 28, 1993. Original rule filed April 14, 1992, effective Feb. 26, 1993. Amended: Filed March 31, 2000.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions more than $500 in the aggregate. See the attached fiscal note.

PRIVATE COST: This proposed amendment will cost private entities more than $500 in the aggregate. See the attached fiscal note.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on June 6, 2000. The public hearing will be held at the Harry S Truman State Office Building, Room 492, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on June 6, 2000. Written statements shall be sent to Stephen R. Gleason, Department of Insurance, P.O. Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 526-4636 at least five working days prior to the hearing.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: Department of Insurance

Division: Property and Casualty

Chapter: Workers' Compensation and Employer's Liability

Type of Rulemaking: Proposed Rule

Rule Number and Name: 20 CSR 500-6.700 Procedures Associated With Workers' Compensation Managed Care Organizations

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Insurance	$42,866 first year, $34,815 annually thereafter.
Division of Workers' Compensation (DOLIR)	$40,541 first year, $33,906 annually thereafter.

III. WORKSHEET

Department of Insurance:

Item	Annual Expense
Product Analyst I	$23,988
Fringe Benefits (30.75%)	$ 7,376
State Data Center	$ 1,464
Office Supplies	$ 300
Telephone/Postage	$ 1,394
Professional Development	$ 293
Annual Expense Total	$34,815

Item	Equipment Expense
Personal Computer	$ 2,000
PC Software	$ 300
Voice/Data Wiring	$ 175
Desk	$ 500
Chair	$ 245
Side Chair	$ 125
File Cabinet	$ 500
Calculator	$ 60
Telephone	$ 46
System Furniture	$ 4,100
Equipment Expense Total	$ 8,051

Div. of Workers' Compensation:

Item	Annual Expense
Clerk Typist III	$ 23,286
Fringe (30.75%)	$ 7,160

Office Supplies	$ 300
Training	$ 300
Rent ($240/sq. ft. x 10 ft.)	$ 2,400
Telephone	$ 140
Electricity	$ 320
Total Annual Expense	$ 33,906

Item	Equipment Expense
Cubicle Furniture & PC	$ 6,460
Telecomminications (Voice and Data)	$ 175
Total Equipment Expense	$ 6,635

IV. ASSUMPTIONS

Department of Insurance: The proposed regulation increases the duties of the Department of Insurance in its oversight of managed care in the workers' compensation insurance market. One FTE will be necessary to attend to these duties on an efficient basis. New duties which will result from the implementation of this regulation will include:

a. Reviewing the materials filed by MCOs seeking annual re-certification;
b. Informing entities seeking certification for the first time of the procedures;
c. Updating the list of currently certified MCOs;
d. Updating the list of MCO providers on the Department's web site;
e. Updating the list of insurance company contact persons on the Department's web site;
f. Compiling annual MCO data on the extent of cost savings through the use of MCOs;
g. Handling complaints by MCOs, insurers, employers, employees and health care providers regarding the compliance with the regulation by other system participants.

Division of Workers' Compensation: The proposed regulation may increase the number of cases handled by the Division of Workers' Compensation regarding whether medical care services are "necessary and appropriate" (under Section 287.135.5, RSMo) or whether health care provider fees and charges are "fair and reasonable" and "usual and customary" (under Section 287.140.3, RSMo). The Division of Workers' Compensation currently handles roughly 2000 such matters a year with one FTE, most of which do not concern MCOs per se. This fiscal note presumes this workload would double, at least in the initial years the regulation is in effect. However, it is also possible that no increase in the Division's workload will result from the proposed regulation.

This fiscal note estimates an annual impact for the first year which includes start-up or one-time equipment costs. Thereafter, an annual amount is estimated without these initial costs. Estimates for subsequent years should be multiplied by the appropriate inflation factor.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Department of Insurance

Division: Property and Casualty

Chapter: Workers' Compensation and Employer's Liability

Type of Rulemaking: Proposed Rule

Rule Number and Name: 20 CSR 500-6.700 Procedures Associated With Workers' Compensation Managed Care Organizations

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to cost of compliance with the rule by the affected entities:
25	Department-Certified Workers' Compensation Managed Care Organizations (MCOs)	$75,000 annually ($3000 per MCO per year.)
307	Missouri-Licensed Workers' Compensation Insurers	$1,293,241 annually (or .0023 of every premium dollar per year.)

III. WORKSHEET

MCO Costs

Regarding MCO costs, this fiscal note assumes that each MCO would have to spend the following amounts to comply with the regulation: $1000 annually for the certification fee under Section (20) of the proposed regulation; $1000 for the time and effort needed to compile the materials necessary for annual re-certification; and, $1000 for an annual actuarial analysis under paragraph (6)(A)15. of the proposed regulation.

Regarding costs to insurers, this fiscal note divides the costs into additional access fee expense and additional loss adjustment expense. Explanations can be found in "Assumptions" below:

Additional Insurer Access Fee Expense:

Written Premium	Step 1:	$555,748,358
Medical and Indemnity Losses (Step 1 x .5863)	Step 2:	$325,835,262
Medical Losses Only (Step 2 x .50)	Step 3:	$162,917,631
Medical Claims through Non-Affiliated MCOs (Step 3 x .05)	Step 4:	$ 8,145,882
Savings on Bills through Non-Affiliated MCOs (Step 4 x .15)	Step 5:	$ 1,221,882
Access Fee on Savings from Non-Affiliated MCOs (Step 5 x .25)	Step 6:	$ 305,471

This amount is the equivalent of ($305,471 / $555,748,358) or .0005 or .05% of every premium dollar. For calculations of the additional annual access fee expense in subsequent years, multiply the premium written in that year by .0005, and by whatever inflation factor is appropriate.

Additional Insurer Loss Adjustment Expense:

Written Premium	Step 1:	$ 555,748,358
Medical and Indemnity Losses (Step 1 x .5863)	Step 2:	$ 325,835,262
Loss Adjustment Expense (Step 2 x .188)	Step 3:	$ 61,257,029
Medical Loss Adjustment Expense: ALAE+ULAE (Step 3 x .645)	Step 4:	$ 39,510,784
Medical LAE Involving Non-Affiliated MCOs (Step 4 x .05)	Step 5:	$ 1,975,539
Additional LAE on Non-Affiliated MCO Bills (Step 6 x .50)	Step 6:	$ 987,770

This amount is the equivalent of ($987,770 / $555,748,358) or .00177 or .17.7% of every premium dollar. For calculations of the additional annual Loss Adjustment Expense for subsequent years, multiply the premium in that year by .00177, and by whatever inflation factor is appropriate.

Aggregate Annual Insurer Cost

Additional Insurer Access Fee Expense + Additional Insurer Loss Adjustment Expense:

$305,471 + 987,770 = $1,293,241

This amount is the equivalent of $1,293,241 / $555,748,358 or .0023 or .23% of every premium dollar. For calculations of the aggregate annual cost in subsequent years, multiply the premium written in that year by .0023. For the impact on individual insurers, again, multiply the annual premium written in the year in question by .0023, and by whatever inflation factor is appropriate.

IV. ASSUMPTIONS

MCO Costs

Currently, there are 21 active workers' compensation MCOs certified under the prior version of the proposed regulation. This fiscal note anticipates a modest growth in this number to 25. Additional MCOs beyond this number would incur the same annual cost of $3000.

Additional Insurer Access Fee Expense

(Step 1) The most recent full year of data on the size of Missouri's insured (as opposed to self-insured) workers' compensation market from the Department's 1998 Missouri Market Share Report, published in July, 1999, indicated the total written premium for workers' compensation insurance for 1998 to be $555,748,358.

(Step 2) The same document indicates that total losses (medical losses + indemnity losses) were 58.63% of premium.

Step 3) While the number fluctuates from year to year, the percent of total losses represented by medical losses is roughly 50%. (See Annual Statistical Bulletin, 1998 Edition, National Council on Compensation Insurance.)

(Step 4) Some insurers currently prefer to have their insured employers use a single MCO to handle work-related injuries or illnesses, others recommend a use of a limited number of MCOs. Some insurers argue that they already have a contractual relationship with such "affiliated" MCOs and do not have to pay any individual access fees to that MCO. Under the proposed regulation, an employer would have the option of using an MCO different than one affiliated with his insurer. Based on the experience of one major carrier, selecting such a non-recommended MCO currently happens less than 5% of the time. The calculation in this fiscal note uses 5% because this carrier also permits employers to use other, non-affiliated MCOs, as permitted under the regulation. Thus, under the proposed regulation, 5% of medical claims may involve non-affiliated MCOs, and thus may require the payment of an access fee the insurer would otherwise not have had to pay.

(Step 5) Under subsection 3 of Section 287.140, RSMo, health care providers are prohibited from charging fees for treatment or care for workers' compensation cases which are greater than the usual and customary fee the provider receives for the same treatment of services when the payor is a private individual or a private health insurance carrier. Some MCOs may be able to offer discounts of as much as 20% off these usual and customary fees. For purposes of this fiscal note, a more-likely aggregate discount of 15% was used.

(Step 6) Subsection (13)(C) of the proposed regulation caps the access fee an insurer must reimburse to a department-certified MCO at 25% of any savings of a provider's usual and customary fee receipts. This fiscal note applies the full 25% access fee permitted to the anticipated savings.

Additional Insurer Loss Adjustment Expense

(Step 1) The most recent full year of data on the size of Missouri's insured (as opposed to self-insured) workers' compensation market from the Department's 1998 Missouri Market Share Report, published in July, 1999, indicated the total written premium for workers' compensation insurance for 1997 to be $555,748,358.

(Step 2) The same document indicates that total losses (medical losses + indemnity losses) were 58.63% of premium.

(Step 3) In addition to access fees an insurer might not have had to pay but for the proposed regulation, some insurers have argued that the use by their insured employers of any number of non-recommended MCOs will complicate the claims processing and bill payment systems of those insurers who have chosen to use one MCO as a way to streamline procedures and cut costs. These types of expenses are reported under the current National Council on Compensation Insurance Statistical Plan as either "Allocated" or "Unallocated" Loss Adjustment Expenses. ALAE + ULAE for Missouri are 18.8% of total losses. (NCCI Voluntary Loss Cost filing, for January 1, 2000.)

(Step 4) However, not all loss adjustment expenses are connected to medical claims. Based on the experience of the NCCI, much more than half, say 75%, of ALAE is related to medical losses. Regarding ULAE, a reasonable split was estimated at 50% / 50%. Based on the NCCI Voluntary Loss Cost filing, effective January 1, 2000, this results in ALAE (9.9% x 75%) + ULAE (9.4% x 50%) = (.07425 + .047) = 12.125%, which means the medical component of LAE is (12.125 / 18.8) or 64.5% of total LAE.

(Step 5) Some insurers currently prefer to have their insured employers use a single MCO to handle work-related injuries or illnesses, while others recommend a use of a limited number of MCOs. Some insurers argue that they already have a contractual relationship with such "affiliated" MCOs and do not have to pay any individual access fees to that MCO. Under the proposed regulation, an employer would have the option of using an MCO different than one affiliated with his insurer. Based on the experience of one major carrier, selecting such a non-recommended MCO currently happens less than 5% of the time. The calculation in this fiscal note uses 5% because this carrier also permits employers to use other, non-affiliated MCOs, as permitted under the regulation. Thus, under the proposed regulation, 5% of medical claims may involve non-affiliated MCOs, and thus may require the payment of an access fee the insurer would otherwise not have had to pay.

(Step 6) Some insurers estimate that their loss adjustment expenses, such as claims handling and bill processing, expenses, will increase due to the regulation. Based on these concerns, provisions have been added to the proposed regulation which attempt to minimize such an effect (such as allowing insurers to use their own utilization review and case management personnel most of the time, and standardizing MCO billing procedures) This fiscal note assumes that the proposed regulation will at most increase the medical LAE by 50% for claims involving non-affiliated MCOs.

Additional Assumptions

This fiscal note does not estimate an impact on health care providers of the proposed regulation, for three reasons: 1) A central goal of the regulation is to assure that MCOs certified by the Department are reimbursed by insurers for MCO functions; while the department has received complaints in this regard, it has not received complaints regarding the refusal of insurers to pay health care providers. Therefore, the regulation assumes most providers are being reimbursed for their services if they are necessary and appropriate. 2) Certified MCOs have been in operation under the prior version of the proposed regulation since November 1, 1992; there are currently 21 active certified MCOs in Missouri. The fiscal note assumes that any health care providers who desired to join an MCO would already have done so and are therefore currently providing services at the discounted rates which would merely be continued under the proposed regulation. 3) Nothing in the regulation limits health care provider reimbursements to amounts less than that allowed by Section 287.140.3, RSMo, without the provider's consent. Providers are free to charge their usual and customary fees unless they voluntarily agree to discount those fees in a contract with an MCO.

This fiscal note also does not estimate an impact on insured employers. While the use of MCOs should help, in the aggregate, to reduce the medical losses and possibly the indemnity losses, the cost to employers of their workers' compensation insurance is determined by their insurers as part of the insurer's rate setting function, and it is up to insurers to decide whether and to what extent any savings realized will be passed on to employers. Unlike the prior version of this regulation, this version does not mandate a premium credit be given to employers using certified MCOs.

Exhibit A Certification Form

Certificate of Authority
Managed Care System for Workers' Compensation

It is Hereby Certified That

(Enter name of Managed Care Organization)

meets the certification requirements of Section 287.135 of the Revised Statutes of Missouri and Regulation 20 CSR 500-6.700. (Enter name of MCO) has been assigned the following departmental identification number: MCO No. XX.

This certificate shall remain in full force and effect for a period of one calendar year unless suspended or revoked by the Director.

IN WITNESS WHEREOF, I have hereto set my hand and caused to be hereto affixed the Seal of said Department. Done in my office in the City of Jefferson, this _____day of_____,_____.

_____
Director of Insurance

Exhibit B **MCO Disclosure/Participation Form (Side A)**

Date: _____

Insured Employer Name: _____

DBA: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Employer Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

Named Insurer: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Insurer Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

Policy Number: _____ **Policy Effective Dates:** _____ **to** _____

Certified Managed Care Organization: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Missouri Department of Insurance MCO Identification Number: _____

MCO Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

The above-named Missouri-certified workers' compensation Managed Care Organization and the above-named Insured Employer have entered into a contract, the form of which has been approved by the Missouri Department of Insurance, under which medical and rehabilitative treatments to injuries to the Insured Employer's employees compensable under the Missouri Workers' Compensation Law shall be directed to the Managed Care Organization's network of health care providers for treatment, under the Insured Employer's direction and control, in accordance with Section 287.140, RSMo.

Authorized Signatures: **For the Managed Care Organization:** _____

Title: _____

For the Insured Employer: _____

Title: _____

Exhibit B MCO Disclosure/Participation Form (Side B)

What to Consider When Choosing a Managed Care Organization (MCO)

Section 287.135, RSMo, provides for the certification by the department of MCOs designed to provide incentives to medical care providers to manage the cost and use of care associated with claims covered by workers' compensation insurance. In addition to assisting in the management and use of medical care, MCOs should also be able to render the following benefits to the workers' compensation system:

1. To injured employees, prompt and appropriate medical care through a system which coordinates and delivers that care so that the employee fully understands the process.

2. To employers, cost effective medical care to their injured employees which helps reduce workers' compensation losses in the aggregate, (as well as the experience modifications of experience-rated employers in particular), which helps avoid unnecessary litigation, and which helps return employees to work in an appropriate manner.

Under Section 287.140(10), RSMo, you the employer, not your insurer, have the right to select the physicians and other health care providers who provide the medical care to your injured employee. Selecting a certified MCO is one way for an employer to choose health care providers in advance of any injuries. You can receive a list of certified MCOs from the Missouri Department of Insurance by calling (573) 751-3365. Note: You are not *required* to use the services of an MCO, but if you do, you are limited to one MCO at a time for a given geographic area.

While one of the goals of using an MCO is to save on the cost of medical care, it should be understood that the savings realized by an individual employer may be higher or lower than the estimated savings for all employers using a particular workers' compensation MCO. In addition, some of the services listed on the attached fee disclosure list which the MCO is required to be able to provide, such as utilization review and case management, may also be available from your insurer as well; check with your insurer and with any MCO you are evaluating to determine how the two entities will coordinate their services to provide you with the most cost effective service possible.

When comparing MCOs, ask about:

1. The size and geographic area of their network of providers in relation to that of your business;
2. The type and quality of the providers in their network;
3. Who owns the MCO network and how that might affect your interests. (Is the MCO owned by health care providers, an insurance company, an independent entity, or is it a hybrid of two or more of these?);
4. The MCO's philosophy;
5. The possible savings you may realize by using the MCO and the possible costs. (Note: The amount of your premium is determined by your insurer, including any schedule rating debits or credits; your choice of an MCO may affect the premium charged by your insurer. Also, that portion of your premium determined by your experience modification factor —if you have one—is determined by a number of factors, including the frequency and severity of claims, only some of which are likely to be affected by the use of an MCO);
6. What arrangements, if any, the MCO and your insurer have made to coordinate care and avoid duplication of services to your injured workers; and
7. Verify that the particular health care providers you typically use are in the MCO's network or your insurer's network.

Remember, you, the employer, have the right to choose your MCO. You also have the right to change your mind and select a new MCO. Also remember to report any claims to your insurer.

Exhibit C **MCO/Insurer Coordination Form (Side A)**

Insured Employer Name: _____

DBA: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Employer Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

Insurance Company: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Insurer Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

Managed Care Organization: _____

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

MCO Contact Person Name and/or Title: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address (if any): _____

Exhibit C **MCO/Insurer Coordination Form (Side B)**

Managed care services are to be provided by the entity designated below to avoid duplication of services and/or costs. (Indicate by placing an "X" in the appropriate column:)

	Insurance Co.	MCO
Precertification:	_____	_____
Prospective utilization review:	_____	_____
Concurrent utilization review:	_____	_____
Telephonic case management:	_____	_____
On-site case management:	_____	_____
Retrospective utilization review:	_____	_____
Provider bill auditing:	_____	_____
Hospital bill auditing:	_____	_____
Bill re-pricing:	_____	_____
Cost savings analysis:	_____	_____
Educational services for employer:	_____	_____
Continuing education for network providers and other personnel:	_____	_____
Data collection and reporting:	_____	_____

Insurance Company address to which re-priced medical bills are to be forwarded:

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Insurance Company address to which MCO fees bills are to be forwarded:

Address: _____

City: _____ **County:** _____ **State:** _____ **Zip:** _____

Original First Report of Injury form and original medical reports and/or files are to be forwarded to the Insurance Company listed above, subject to the following instructions:

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register;* an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either:1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 1—Organization and Description

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 536.023, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-1.010 General Organization **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2755). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.011 Agricultural Commodities To Be Regulated as Grain **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2755). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director rescinds a rule as follows:

2 CSR 60-4.040 Licensing of Grain Weighers and Grain Inspectors **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2755–2756). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.070 Notification of Destruction or Damage to Grain **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2756). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.110 Preparation of Financial Statements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2756–2757). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.140 Certificates of Deposit **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2757–2758). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.150 Letters of Credit **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2758). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 4—Missouri Grain Warehouse Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 411.070, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-4.180 Claim Valuation **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2758–2759). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2759). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.010 Agricultural Commodities to be Regulated as Grain

AUTHORITY: sections 276.401 and 276.406, RSMo Supp. 1999. Original rule filed March 12, 1982, effective June 11, 1982. Amended: Filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed Feb. 27, 1991, effective July 8, 1991. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director rescinds a rule as follows:

2 CSR 60-5.020 Interpretive Rule **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2759). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director adopts a rule as follows:

2 CSR 60-5.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2759). No changes have been made in the text of the proposed rule, however the authority section has been updated to reflect the most current statutory date. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.020 Interpretive Rule

AUTHORITY: section 276.406, RSMo Supp. 1999. Original rule filed March 15, 1982, effective June 11, 1982. Rescinded and readopted: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director rescinds a rule as follows:

2 CSR 60-5.030 Scale Tickets **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2760). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2760). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.040 Daily Position Record

AUTHORITY: section 276.406, RSMo Supp. 1999. Original rule filed March 15, 1982, effective June 11, 1982. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2760–2761). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.050 Acceptance of Appraisal Values on Financial Statements

AUTHORITY: sections 276.406 and 276.421, RSMo Supp. 1999. Original rule filed Jan. 11, 1985, effective May 26, 1985. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2761). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.070 Certificates of Deposit

AUTHORITY: sections 276.406(2) and 276.431, RSMo Supp. 1999. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.080 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2761–2762). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.080 Letters of Credit

AUTHORITY: sections 276.406 and 276.431, RSMo Supp. 1999. Emergency rule filed April 15, 1986, effective April 25, 1986, expired Aug. 23, 1986. Original rule filed May 2, 1986, effective Aug. 25, 1986. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director amends a rule as follows:

2 CSR 60-5.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2762–2763). No changes have been made in the text of the proposed amendment, however the authority section has been updated to reflect the most current statutory date. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.100 Preparation of Financial Statements

AUTHORITY: sections 276.406 and 276.421, RSMo Supp. 1999. This rule was previously filed as 2 CSR 60-5.090. Original rule filed March 16, 1988, effective June 27, 1988. Amended: Filed Oct. 25, 1999.

Title 2—DEPARTMENT OF AGRICULTURE
Division 60—Grain Inspection and Warehousing
Chapter 5—Missouri Grain Dealer's Law

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 276.406, RSMo Supp. 1999, the director adopts a rule as follows:

2 CSR 60-5.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2763–2764). No changes have been made in the text of the proposed rule, however the authority section has been updated to reflect the most current statutory date. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

2 CSR 60-5.120 Fees

AUTHORITY: section 276.406, RSMo Supp. 1999. Original rule filed Oct. 25, 1999.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 143.961, RSMo 1994, the director amends a rule as follows:

12 CSR 10-2.015 Employers' Withholding of Tax **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2000 (25 MoReg 18–19). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 144.270 and 144.705, RSMo 1994, the director adopts a rule as follows:

12 CSR 10-110.900 Farm Machinery and Equipment Exemptions **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 3, 2000 (25 MoReg 20–23). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 144.270 and 144.705, RSMo 1994, the director adopts a rule as follows:

12 CSR 10-111.060 Material Recovery Processing Plant Exemption **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 3, 2000 (25 MoReg 23–24). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions

APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS

Pursuant to section 370.081(4), RSMo Supp. 1999, the Director of the Missouri Division of Credit Unions is required to cause notice to be published that the following credit unions have submitted applications to add new groups or geographic areas to their membership.

Credit Union	Proposed New Group or Geographic Area
Purina Credit Union 1045 Chouteau St. Louis, MO 63102	Employees of Connexus, Inc. Employees of Security Armored Car Service, Inc.

NOTICE TO SUBMIT COMMENTS: Anyone may file a written statement in support of or in opposition to any of these applications. Comments shall be filed with: Director, Division of Credit Unions, P.O. Box 1607, Jefferson City, MO 65102. To be considered, written comments must be submitted no later than ten business days after publication of this notice in the ***Missouri Register****.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions

ACTIONS TAKEN ON APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS

Pursuant to section 370.081(4), RSMo Supp. 1999, the Director of the Missouri Division of Credit Unions is required to cause notice to be published that the director has either granted or rejected applications from the following credit unions to add new groups or geographic areas to their membership and state the reasons for taking these actions.

The following applications have been granted. These credit unions have met the criteria applied to determine if additional groups may be included in the membership of an existing credit union and have the immediate ability to serve the proposed new groups or geographic areas. The proposed new groups or geographic areas meet the requirements established pursuant to 370.080(2), RSMo Supp. 1999.

Credit Union	Proposed New Group or Geographic Area
CommunityAmerica Credit Union 11125 Ambassador Drive, Suite 100 Kansas City, MO 64195	Persons who live or work in St. Charles County of Missouri and Zip Codes of 63005, 63141, 63132, 63017, 63146, 63043, 63042, and 63031

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions

ACTIONS TAKEN ON APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS

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Credit Union	Proposed New Group or Geographic Area
Kilowatt Credit Union 1021 Southwest Boulevard, Suite C1 Jefferson City, MO 65109	Persons residing or working in Cole or Callaway Counties

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

IN ADDITION

This In Addition corrects references to "BTU" which were printed in the proposed amendment to 10 CSR 10-6.065(3)(D)15. and 16. in the November 1, 1999 *Missouri Register* (24 MoReg 2630–2632). Subsection (3)(D) is reprinted here for clarification.

10 CSR 10-6.065 Operating Permits

(3) Applicability.

(D) Exempt Installations and Emission Units. The following installations and emission units are exempt from the requirements of this rule unless such units are Part 70 installations or are located at Part 70 installations. Emissions from exempt installations and emission units shall be considered when determining if the installation is a Part 70 installation:

1. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.070(7)(AAA) Standards of Performance for New Residential Wood Heaters;

2. Any installation that would be required to obtain a permit solely because it is subject to 10 CSR 10-6.240 or 10 CSR 10-6.250;

3. Single or multiple family dwelling units for not more than three (3) families;

4. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;

5. Equipment used for any mode of transportation;

6. Livestock and livestock handling systems from which the only potential air contaminants is odorous gas;

7. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

8. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;

9. Equipment or control equipment which eliminates all emissions to the ambient air;

10. Equipment (other than anaerobic lagoons) or control equipment which emits odors unless this equipment or control equipment also emits other regulated air pollutants;

11. Residential wood heaters, cookstoves or fireplaces;

12. Laboratory equipment used exclusively for chemical and physical analysis or experimentation is exempt, except equipment used for controlling radioactive air contaminants;

13. Recreational fireplaces;

14. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption;

15. Combustion equipment that—

A. Emits only combustion products;

B. Produces less than one hundred fifty (150) pounds per day of any air contaminant; and

C. Has a maximum rated capacity of—

(I) Less than ten (10) million British thermal units (BTUs) per hour heat input by using exclusively natural or liquefied petroleum gas, or any combination of these; or

(II) Less than one (1) million BTUs per hour heat input;

16. Office and commercial buildings, where emissions result solely from space heaters using natural gas or liquefied petroleum gas with a maximum rated capacity of less than twenty (20) million BTUs per hour heat input. Incinerators operated in conjunction with these sources are not exempt;

17. Any country grain elevator that never handles more than one million two hundred thirty-eight thousand six hundred fifty-seven (1,238,657) bushels of grain during any twelve (12)-month period and is not located within an incorporated area with a population of fifty thousand (50,000) or more. A country grain elevator is defined as a grain elevator that receives more than fifty percent (50%) of its grain from producers in the immediate vicinity during the harvest season. This exemption does not include grain terminals which are defined as grain elevators that receive grain primarily from other grain elevators. To qualify for this exemption the owner or operator of the facility shall retain monthly records of grain origin and bushels of grain received, processed and stored for a minimum of five (5) years to verify the exemption requirements. Monthly records must be tabulated within seven (7) days of the end of the month. Tabulated monthly records shall be made available immediately to Missouri Department of Natural Resources representatives for an announced inspection or within three (3) hours for an unannounced visit;

18. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption; and

19. Sand and gravel operations that have a maximum capacity to produce less than seventeen and one-half (17.5) tons of product per hour and use only natural gas as fuel when drying.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need

In accordance with §197.330.1 (2), RSMo and 19 CSR 60-50.420 (3) of the Missouri Rules, the Missouri Health Facilities Review Committee is herein publishing "written notification to affected persons" of Certificate of Need applications which are beginning review at this time.

Certificate of Need Application Review Schedule

Tentative Meeting Date: June 5, 2000, 9:00 a.m.
Senate Hearing Rooms 2/3, State Capitol, Jefferson City

Application Project Number & Name/Cost & Description/City & County

1. **#2952 HS:** Cox Monett Hospital
   $3,764,579, Reconfigure Surgery & Establish Obstetrical Service
   Monett (Barry County)

2. **#2962 HS:** Southeast Missouri Hospital
   $4,342,000, Renovate Obstetrical Services
   Cape Girardeau (Cape Girardeau County)

3. **#2969 HS:** Mobile PET Systems Inc./St. John's Health System
   $1,632,100, Establish Mobile PET Service
   Springfield (Greene County)

4. **#2968 HS:** Barnes-Jewish St. Peters Hospital
   $2,626,000, Redesign Emergency Department
   St. Peters (St. Charles County)

The Missouri Health Facilities Review Committee has initiated review of the applications listed above. These applications are available for public inspection at the address shown below.

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect which is received in the office listed below by April 26, 2000. All written requests and comments should be sent to:
Chairman, Missouri Health Facilities Review Committee
c/o Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101

For additional information contact Donna Schuessler, 573-751-6403
Notification of Review Publication Date: March 27, 2000

OFFICE OF ADMINISTRATION
Division of Purchasing

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, P.O. Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: http://www.state.mo.us/oa/purch/purch.htm. Prospective bidders may receive specifications upon request.

B3Z00168 Laundry Services 5/2/00;
B3Z00186 Armored Car Service 5/4/00;
B3Z00196 Printing: Missouri Driver Guide 5/4/00;
B3Z00197 Printing: Hunter Education Manual 5/4/00;
B1Z00394 Orderpicker: Electronic, Counter Balanced 5/5/00;
B1Z00300 Mesh, Polyester 5/9/00;
B1Z00371 Breathing Apparatus 5/9/00;
B1Z00404 Washer/Dryer 5/9/00;
B1Z00405 Tractor and Attachments 5/9/00;
B1Z00412 Waferboard and Particleboard 5/9/00;
B2Z00062 Point of Sale System 5/9/00;
B2Z00080 Copier, Engineering 5/9/00;
B3Z00154 Administrative Services-Lewis & Clark Bicentennial Celebrations 5/9/00;
B3Z00189 Exhibit Renovation 5/10/00;
B3Z00191 Printing: Warrants 5/10/00;
B1Z00406 Engraving Material 5/11/00;
B1Z00407 Building Supplies-Jefferson City Area 5/11/00;
B1Z00411 Laser Engraving Equipment 5/11/00;
B2Z00081 Telephone PBX System Maintenance 5/11/00;
B3Z00136 Genetic Parentage Testing Services 5/11/00;
B3Z00159 Janitorial Service 5/11/00;
B3Z00172 Satellite Space Services 5/11/00;
B3Z00184 Liquid Trash Collection Services 5/11/00;
B2Z00054 CLASS Feature & Single Line Telephones 5/12/00;
B3Z00192 Janitorial Services 5/12/00;
B3Z00200 Vending Services-St. Joseph Office Bldg. 5/16/00;
B2Z00084 Copier-High Speed 5/18/00;
B3Z00174 Moving Services-Jefferson City 5/30/00;
B2Z00068 Optical Character Recognition System 6/1/00;
B3Z00180 Medicaid Managed Care-Eastern Region 6/30/00.

It is the intent of the state of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

1.) Upgrade of Call Center Hardware/Software, supplied by Southwestern Bell.
2.) SOFTWARE: GT MVS MIPS Upgrade, supplied by GT Software, Inc.
3.) American Methodone Treatment Association 2001 Conference, supplied by American Methodone Treatment Association, Inc.

Joyce Murphy, CPPO,
Director of Purchasing

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—23 (1998), 24 (1999) and 25 (2000). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable and RUC indicates a rule under consideration.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				23 MoReg 2473 24 MoReg 2535
1 CSR 10-17.040	Office of Administration *(Changed from 1 CSR 40-1.070)*		This Issue		
1 CSR 10-17.050	Office of Administration *(Changed from 1 CSR 40-1.080)*		This Issue		
1 CSR 20-5.010	Personnel Advisory Board		24 MoReg 2578	25 MoReg 696	
1 CSR 20-5.015	Personnel Advisory Board		24 MoReg 2578	25 MoReg 697	
1 CSR 20-5.020	Personnel Advisory Board		24 MoReg 2579	25 MoReg 697	
1 CSR 20-5.025	Personnel Advisory Board		24 MoReg 2580	25 MoReg 699	
1 CSR 40-1.010	Purchasing and Materials Management		This Issue		
1 CSR 40-1.030	Purchasing and Materials Management		This Issue		
1 CSR 40-1.050	Purchasing and Materials Management		This Issue		
1 CSR 40-1.060	Purchasing and Materials Management		This Issue		
1 CSR 40-1.070	Purchasing and Materials Management *(Changed to 1 CSR 10-17.040)*		This Issue		
1 CSR 40-1.080	Purchasing and Materials Management *(Changed to 1 CSR 10-17.050)*		This Issue		
	DEPARTMENT OF AGRICULTURE				
2 CSR 10-5.005	Market Development	24 MoReg 2269			
2 CSR 10-5.010	Market Development		24 MoReg 2676	25 MoReg 563	
2 CSR 30-2.020	Animal Health		25 MoReg 633		
2 CSR 60-1.010	Grain Inspection and Warehousing		24 MoReg 2755	This Issue	
2 CSR 60-4.011	Grain Inspection and Warehousing		24 MoReg 2755	This Issue	
2 CSR 60-4.040	Grain Inspection and Warehousing		24 MoReg 2755R	This IssueR	
2 CSR 60-4.070	Grain Inspection and Warehousing		24 MoReg 2756	This Issue	
2 CSR 60-4.110	Grain Inspection and Warehousing		24 MoReg 2756	This Issue	
2 CSR 60-4.140	Grain Inspection and Warehousing		24 MoReg 2757	This Issue	
2 CSR 60-4.150	Grain Inspection and Warehousing		24 MoReg 2758	This Issue	
2 CSR 60-4.180	Grain Inspection and Warehousing		24 MoReg 2758	This Issue	
2 CSR 60-5.010	Grain Inspection and Warehousing		24 MoReg 2759	This Issue	
2 CSR 60-5.020	Grain Inspection and Warehousing		24 MoReg 2759R 24 MoReg 2759	This IssueR This Issue	
2 CSR 60-5.030	Grain Inspection and Warehousing		24 MoReg 2760R	This IssueR	
2 CSR 60-5.040	Grain Inspection and Warehousing		24 MoReg 2760	This Issue	
2 CSR 60-5.050	Grain Inspection and Warehousing		24 MoReg 2760	This Issue	
2 CSR 60-5.070	Grain Inspection and Warehousing		24 MoReg 2761	This Issue	
2 CSR 60-5.080	Grain Inspection and Warehousing		24 MoReg 2761	This Issue	
2 CSR 60-5.100	Grain Inspection and Warehousing		24 MoReg 2762	This Issue	
2 CSR 60-5.120	Grain Inspection and Warehousing		24 MoReg 2763	This Issue	
2 CSR 80-2.180	State Milk Board	24 MoReg 2675	24 MoReg 2764	25 MoReg 699	
2 CSR 80-5.010	State Milk Board		25 MoReg 357		
2 CSR 90-20.040	Weights and Measures		25 MoReg 760		
2 CSR 90-22.140	Weights and Measures		25 MoReg 760		
2 CSR 90-25.010	Weights and Measures		25 MoReg 761		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-1.010	Conservation Commission		25 MoReg 477		
3 CSR 10-4.115	Conservation Commission		25 MoReg 259	25 MoReg 999	
3 CSR 10-4.116	Conservation Commission		25 MoReg 633	25 MoReg 999	
3 CSR 10-6.405	Conservation Commission		25 MoReg 260		
3 CSR 10-7.455	Conservation Commission				24 MoReg 2989
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 40-1.021	Office of Athletics	21 MoReg 2680			
4 CSR 40-5.070	Office of Athletics	21 MoReg 1963			
4 CSR 70-2.050	State Board of Chiropractic Examiners		25 MoReg 925		
4 CSR 70-2.100	State Board of Chiropractic Examiners		25 MoReg 925		
4 CSR 90-1.010	State Board of Cosmetology		25 MoReg 926		
4 CSR 90-2.010	State Board of Cosmetology		25 MoReg 928		
4 CSR 90-3.010	State Board of Cosmetology		25 MoReg 928		
4 CSR 90-4.020	State Board of Cosmetology		25 MoReg 931R 25 MoReg 931		
4 CSR 90-11.010	State Board of Cosmetology		25 MoReg 931		
4 CSR 90-13.010	State Board of Cosmetology		25 MoReg 932		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 100	Division of Credit Unions				25 MoReg 724
					25 MoReg 724
					25 MoReg 724
					25 MoReg 1032
					This Issue
					This Issue
					This Issue
4 CSR 100-2.045	Division of Credit Unions		25 MoReg 932		
4 CSR 100-2.190	Division of Credit Unions		25 MoReg 261		
4 CSR 105-3.040	Credit Union Commission		25 MoReg 360		
4 CSR 110-2.001	Missouri Dental Board		25 MoReg 477		
4 CSR 110-2.130	Missouri Dental Board		25 MoReg 478R		
			25 MoReg 478		
4 CSR 115-1.010	State Committee of Dietitians		25 MoReg 934		
4 CSR 115-1.020	State Committee of Dietitians		25 MoReg 937		
4 CSR 115-1.030	State Committee of Dietitians		25 MoReg 940		
4 CSR 115-1.040	State Committee of Dietitians		25 MoReg 943		
4 CSR 115-2.010	State Committee of Dietitians		25 MoReg 943		
4 CSR 115-2.020	State Committee of Dietitians		25 MoReg 947		
4 CSR 115-2.030	State Committee of Dietitians		25 MoReg 948		
4 CSR 115-2.040	State Committee of Dietitians		25 MoReg 951		
4 CSR 115-2.050	State Committee of Dietitians		25 MoReg 955		
4 CSR 120-1.030	Board of Embalmers and Funeral Directors		25 MoReg 959		
4 CSR 120-2.010	Board of Embalmers and Funeral Directors		25 MoReg 959		
4 CSR 120-2.060	Board of Embalmers and Funeral Directors		25 MoReg 960		
4 CSR 120-2.100	Board of Embalmers and Funeral Directors		25 MoReg 261		
4 CSR 150-2.001	State Board of Registration for the Healing Arts		25 MoReg 485		
4 CSR 150-2.005	State Board of Registration for the Healing Arts		25 MoReg 485		
4 CSR 150-2.065	State Board of Registration for the Healing Arts		25 MoReg 485		
4 CSR 150-2.080	State Board of Registration for the Healing Arts		25 MoReg 261		
4 CSR 150-2.100	State Board of Registration for the Healing Arts		25 MoReg 486		
4 CSR 150-3.203	State Board of Registration for the Healing Arts		25 MoReg 486		
4 CSR 150-4.051	State Board of Registration for the Healing Arts		25 MoReg 487		
4 CSR 150-4.055	State Board of Registration for the Healing Arts		25 MoReg 487		
4 CSR 150-4.060	State Board of Registration for the Healing Arts		25 MoReg 488		
4 CSR 150-4.105	State Board of Registration for the Healing Arts		25 MoReg 488		
4 CSR 150-4.110	State Board of Registration for the Healing Arts`		25 MoReg 489R		
			25 MoReg 489		
4 CSR 150-4.115	State Board of Registration for the Healing Arts		25 MoReg 490R		
			25 MoReg 490		
4 CSR 150-4.120	State Board of Registration for the Healing Arts		25 MoReg 491R		
			25 MoReg 491		
4 CSR 150-4.125	State Board of Registration for the Healing Arts		25 MoReg 496		
4 CSR 150-4.130	State Board of Registration for the Healing Arts		25 MoReg 496		
4 CSR 150-4.200	State Board of Registration for the Healing Arts		25 MoReg 496		
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4 CSR 150-4.203	State Board of Registration for the Healing Arts		25 MoReg 497		
4 CSR 150-4.205	State Board of Registration for the Healing Arts		25 MoReg 498		
4 CSR 150-4.210	State Board of Registration for the Healing Arts		25 MoReg 503		
4 CSR 150-4.215	State Board of Registration for the Healing Arts		25 MoReg 503		
4 CSR 150-6.020	State Board of Registration for the Healing Arts		25 MoReg 507		
4 CSR 150-6.025	State Board of Registration for the Healing Arts		25 MoReg 507		
4 CSR 150-6.030	State Board of Registration for the Healing Arts		25 MoReg 512		
4 CSR 150-6.060	State Board of Registration for the Healing Arts		25 MoReg 512		
4 CSR 150-6.070	State Board of Registration for the Healing Arts		25 MoReg 517		
4 CSR 150-7.100	State Board of Registration for the Healing Arts		25 MoReg 517		
4 CSR 150-7.120	State Board of Registration for the Healing Arts		25 MoReg 517		
4 CSR 150-7.122	State Board of Registration for the Healing Arts		25 MoReg 518		
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4 CSR 150-7.140	State Board of Registration for the Healing Arts		25 MoReg 519		
4 CSR 150-7.200	State Board of Registration for the Healing Arts		25 MoReg 521		
4 CSR 150-7.300	State Board of Registration for the Healing Arts		25 MoReg 521		
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4 CSR 193-2.010	Interior Design Council		25 MoReg 769		
4 CSR 193-2.020	Interior Design Council		25 MoReg 773		
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4 CSR 193-2.040	Interior Design Council		25 MoReg 773		
4 CSR 193-3.010	Interior Design Council		25 MoReg 778		
4 CSR 193-3.020	Interior Design Council		25 MoReg 778		
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4 CSR 193-5.010	Interior Design Council		25 MoReg 782		
4 CSR 193-6.010	Interior Design Council		25 MoReg 786		
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4 CSR 195-5.030	Workforce Development		24 MoReg 2318 25 MoReg 966		
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4 CSR 197-5.010	Board of Therapeutic Massage		25 MoReg 832		
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4 CSR 197-5.040	Board of Therapeutic Massage		25 MoReg 842		
4 CSR 197-6.010	Board of Therapeutic Massage		25 MoReg 846		
4 CSR 197-6.020	Board of Therapeutic Massage		25 MoReg 849		
4 CSR 210-2.060	State Board of Optometry		22 MoReg 1443		
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4 CSR 220-4.010	State Board of Pharmacy		25 MoReg 973		
4 CSR 220-5.020	State Board of Pharmacy		25 MoReg 973		
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4 CSR 220-5.050	State Board of Pharmacy		25 MoReg 974		
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4 CSR 240-2.015	Public Service Commission		24 MoReg 2319	25 MoReg 565	
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4 CSR 240-2.050	Public Service Commission		24 MoReg 2320R 24 MoReg 2321	25 MoReg 566R 25 MoReg 566	
4 CSR 240-2.060	Public Service Commission		24 MoReg 2321R 24 MoReg 2321	25 MoReg 567R 25 MoReg 567	
4 CSR 240-2.065	Public Service Commission		24 MoReg 2324R 24 MoReg 2324	25 MoReg 569R 25 MoReg 569	
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4 CSR 240-2.125	Public Service Commission		24 MoReg 2333R 24 MoReg 2333	25 MoReg 578R 25 MoReg 578	
4 CSR 240-2.130	Public Service Commission		24 MoReg 2334R 24 MoReg 2334	25 MoReg 579R 25 MoReg 579	
4 CSR 240-2.140	Public Service Commission		24 MoReg 2336R 24 MoReg 2336	25 MoReg 581R 25 MoReg 581	
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4 CSR 240-2.170	Public Service Commission		24 MoReg 2338R	25 MoReg 582R	
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4 CSR 240-32.110	Public Service Commission		24 MoReg 2341	25 MoReg 584	
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4 CSR 240-33.010	Public Service Commission		24 MoReg 2347R 24 MoReg 2347	25 MoReg 699R 25 MoReg 699	
4 CSR 240-33.020	Public Service Commission		24 MoReg 2347R 24 MoReg 2348	25 MoReg 700R 25 MoReg 700	
4 CSR 240-33.040	Public Service Commission		24 MoReg 2351R 24 MoReg 2351	25 MoReg 702R 25 MoReg 702	
4 CSR 240-33.050	Public Service Commission		24 MoReg 2355R 24 MoReg 2355	25 MoReg 706R 25 MoReg 706	
4 CSR 240-33.060	Public Service Commission		24 MoReg 2359R 24 MoReg 2359	25 MoReg 709R 25 MoReg 709	
4 CSR 240-33.070	Public Service Commission		24 MoReg 2362R 24 MoReg 2362	25 MoReg 711R 25 MoReg 711	
4 CSR 240-33.080	Public Service Commission		24 MoReg 2367R 24 MoReg 2367	25 MoReg 715R 25 MoReg 715	
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4 CSR 240-33.140	Public Service Commission		24 MoReg 2376	25 MoReg 720	
4 CSR 240-33.150	Public Service Commission	24 MoReg 2747T			
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4 CSR 250-8.090	Missouri Real Estate Commission		25 MoReg 361		
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4 CSR 250-8.096	Missouri Real Estate Commission		25 MoReg 365		
4 CSR 250-8.097	Missouri Real Estate Commission		25 MoReg 365		
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7 CSR 10-6.010	Highways and Transportation Commission		24 MoReg 765		
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7 CSR 10-6.060	Highways and Transportation Commission		24 MoReg 769		
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7 CSR 10 14.010	Highways and Transportation Commission		25 MoReg 635		
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10 CSR 10-3.080	Air Conservation Commission		24 MoReg 2588R	25 MoReg 1001R	
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10 CSR 45-6.010	Metallic Minerals Waste Management		24 MoReg 2049		
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10 CSR 45-6.020	Metallic Minerals Waste Management		24 MoReg 2049		
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11 CSR 30-9.040	Office of the Director	25 MoReg 752	25 MoReg 853		
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11 CSR 45-9.030	Missouri Gaming Commission		24 MoReg 2765		25 MoReg 1003
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11 CSR 45-17.030	Missouri Gaming Commission		25 MoReg 854		
11 CSR 45-30.180	Missouri Gaming Commission		24 MoReg 2768		25 MoReg 1008
11 CSR 45-30.190	Missouri Gaming Commission		24 MoReg 2768		25 MoReg 1009
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11 CSR 45-30.220	Missouri Gaming Commission		24 MoReg 2769		25 MoReg 1009
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11 CSR 45-30.370	Missouri Gaming Commission		24 MoReg 2769		25 MoReg 1010
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11 CSR 50-2.090	Missouri State Highway Patrol		25 MoReg 554		
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11 CSR 50-2.290	Missouri State Highway Patrol	25 MoReg 476	25 MoReg 555		
11 CSR 50-2.320	Missouri State Highway Patrol		25 MoReg 556		
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11 CSR 50-2.407	Missouri State Highway Patrol	24 MoReg 2751R	24 MoReg 2773R	25 MoReg 722R	
11 CSR 50-2.410	Missouri State Highway Patrol	24 MoReg 2751R	24 MoReg 2773R	25 MoReg 722R	
11 CSR 50-2.420	Missouri State Highway Patrol	24 MoReg 2752R	24 MoReg 2774R	25 MoReg 722R	
11 CSR 50-2.430	Missouri State Highway Patrol		25 MoReg 556		
11 CSR 50-2.440	Missouri State Highway Patrol		25 MoReg 557		
11 CSR 60-1.070	Division of Highway Safety		25 MoReg 18	25 MoReg 1010	
11 CSR 75-2.010	Peace Officer Standards and Training		25 MoReg 664		
11 CSR 75-3.010	Peace Officer Standards and Training		24 MoReg 2963	25 MoReg 888	
11 CSR 75-3.020	Peace Officer Standards and Training		24 MoReg 2963 25 MoReg 665	25 MoReg 888	
11 CSR 75-3.030	Peace Officer Standards and Training		24 MoReg 2963 25 MoReg 854	25 MoReg 888	
11 CSR 75-3.050	Peace Officer Standards and Training		24 MoReg 2967	25 MoReg 888	
11 CSR 75-3.060	Peace Officer Standards and Training		24 MoReg 2967	25 MoReg 889	
11 CSR 75-3.070	Peace Officer Standards and Training		24 MoReg 2968	25 MoReg 889	
11 CSR 75-3.080	Peace Officer Standards and Training		24 MoReg 2968	25 MoReg 889	
11 CSR 75-5.040	Peace Officer Standards and Training		25 MoReg 665		
11 CSR 75-10.010	Peace Officer Standards and Training		24 MoReg 2969	25 MoReg 889	
11 CSR 75-10.020	Peace Officer Standards and Training		24 MoReg 2969	25 MoReg 889	
11 CSR 75-10.030	Peace Officer Standards and Training		24 MoReg 2969	25 MoReg 889	
11 CSR 75-10.040	Peace Officer Standards and Training		24 MoReg 2970	25 MoReg 890	
11 CSR 75-10.050	Peace Officer Standards and Training		24 MoReg 2970	25 MoReg 890	
11 CSR 75-10.060	Peace Officer Standards and Training		24 MoReg 2970	25 MoReg 890	
11 CSR 75-10.090	Peace Officer Standards and Training		24 MoReg 2971R	25 MoReg 890R	
11 CSR 75-10.100	Peace Officer Standards and Training		24 MoReg 2971	25 MoReg 890	
11 CSR 75-11.035	Peace Officer Standards and Training		25 MoReg 665		
11 CSR 75-11.040	Peace Officer Standards and Training	24 MoReg 2937	24 MoReg 2972	25 MoReg 890	
11 CSR 75-11.060	Peace Officer Standards and Training		25 MoReg 666		
11 CSR 75-11.070	Peace Officer Standards and Training		25 MoReg 666		
11 CSR 80-1.010	Missouri State Water Patrol		25 MoReg 290		
11 CSR 80-2.010	Missouri State Water Patrol		25 MoReg 290		
11 CSR 80-3.010	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-3.020	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-4.010	Missouri State Water Patrol		25 MoReg 291		
11 CSR 80-5.010	Missouri State Water Patrol		24 MoReg 2774	25 MoReg 722	
11 CSR 80-6.010	Missouri State Water Patrol		25 MoReg 292		
11 CSR 80-7.010	Missouri State Water Patrol		25 MoReg 292		
11 CSR 80-8.010	Missouri State Water Patrol		25 MoReg 292		
	DEPARTMENT OF REVENUE				
12 CSR	Construction Transient Employers				24 MoReg 2087
12 CSR 10-2.015	Director of Revenue	25 MoReg 5	25 MoReg 18	This Issue	
12 CSR 10-3.460	Director of Revenue	25 MoReg 144			
12 CSR 10-5.015	Director of Revenue		24 MoReg 2973R	25 MoReg 891R	
12 CSR 10-5.020	Director of Revenue		24 MoReg 2973R	25 MoReg 891R	
12 CSR 10-5.035	Director of Revenue		24 MoReg 2974R	25 MoReg 891R	
12 CSR 10-5.105	Director of Revenue		24 MoReg 2974R	25 MoReg 891R	
12 CSR 10-5.520	Director of Revenue		24 MoReg 2974R	25 MoReg 891R	
12 CSR 10-11.030	Director of Revenue		24 MoReg 2974R	25 MoReg 891R	
12 CSR 10-11.040	Director of Revenue		24 MoReg 2975R	25 MoReg 892R	
12 CSR 10-11.090	Director of Revenue		24 MoReg 2975R	25 MoReg 892R	
12 CSR 10-11.190	Director of Revenue		24 MoReg 2975R	25 MoReg 892R	
12 CSR 10-11.200	Director of Revenue		24 MoReg 2975R	25 MoReg 892R	
12 CSR 10-11.210	Director of Revenue		24 MoReg 2976R	25 MoReg 892R	
12 CSR 10-11.220	Director of Revenue		24 MoReg 2976R	25 MoReg 1011R	
12 CSR 10-11.230	Director of Revenue		24 MoReg 2976R	25 MoReg 892R	
12 CSR 10-23.100	Director of Revenue		25 MoReg 557		
12 CSR 10-23.450	Director of Revenue		24 MoReg 2775	25 MoReg 893	
12 CSR 10-24.050	Director of Revenue		24 MoReg 2976	25 MoReg 893	
12 CSR 10-24.450	Director of Revenue		This Issue		
12 CSR 10-24.452	Director of Revenue		This Issue		
12 CSR 10-25.090	Director of Revenue		25 MoReg 392R		
12 CSR 10-26.010	Director of Revenue		24 MoReg 2776	25 MoReg 893	
12 CSR 10-26.020	Director of Revenue		24 MoReg 2779	25 MoReg 1011	
12 CSR 10-26.030	Director of Revenue		24 MoReg 2781	25 MoReg 893	
12 CSR 10-26.040	Director of Revenue		24 MoReg 2784	25 MoReg 893	
12 CSR 10-26.050	Director of Revenue		24 MoReg 2787	25 MoReg 893	
12 CSR 10-26.060	Director of Revenue		24 MoReg 2789	25 MoReg 1011	
12 CSR 10-26.070	Director of Revenue		24 MoReg 2791	25 MoReg 894	
12 CSR 10-26.080	Director of Revenue		24 MoReg 2793	25 MoReg 894	
12 CSR 10-26.090	Director of Revenue		24 MoReg 2795	25 MoReg 894	
12 CSR 10-26.100	Director of Revenue		24 MoReg 2797	25 MoReg 1011	
12 CSR 10-26.110	Director of Revenue		24 MoReg 2799	25 MoReg 894	
12 CSR 10-26.120	Director of Revenue		24 MoReg 2801	25 MoReg 894	
12 CSR 10-26.130	Director of Revenue		24 MoReg 2803	25 MoReg 894	
12 CSR 10-26.140	Director of Revenue		24 MoReg 2805	25 MoReg 895	
12 CSR 10-26.150	Director of Revenue		24 MoReg 2807	25 MoReg 895	
12 CSR 10-26.160	Director of Revenue		24 MoReg 2809	25 MoReg 895	
12 CSR 10-26.170	Director of Revenue		24 MoReg 2811	25 MoReg 895	
12 CSR 10-41.010	Director of Revenue	24 MoReg 2938	24 MoReg 2977	25 MoReg 895	
12 CSR 10-101.500	Director of Revenue		25 MoReg 19		
12 CSR 10-103.200	Director of Revenue		25 MoReg 292		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
12 CSR 10-103.610	Director of Revenue		25 MoReg 293		
12 CSR 10-103.360	Director of Revenue		24 MoReg 2977	25 MoReg 895	
12 CSR 10-103.390	Director of Revenue		24 MoReg 2978	25 MoReg 895	
12 CSR 10-103.500	Director of Revenue		24 MoReg 2979	25 MoReg 896	
12 CSR 10-109.050	Director of Revenue		24 MoReg 2980	25 MoReg 1012	
12 CSR 10-110.013	Director of Revenue *Changed from 12 CSR 10-111.013*		24 MoReg 2632	25 MoReg 588	
12 CSR 10-110.900	Director of Revenue		25 MoReg 20	This Issue	
12 CSR 10-110.910	Director of Revenue		25 MoReg 294		
12 CSR 10-110.920	Director of Revenue		25 MoReg 295		
12 CSR 10-111.013	Director of Revenue *Changed to 12 CSR 10-110.013*		24 MoReg 2632	25 MoReg 558	
12 CSR 10-111.060	Director of Revenue		25 MoReg 23	This Issue	
12 CSR 10-112.300	Director of Revenue		24 MoReg 2981	25 MoReg 896	
12 CSR 30-1.030	State Tax Commission		24 MoReg 2695	25 MoReg 1012	
12 CSR 30-2.017	State Tax Commission		24 MoReg 2696R	25 MoReg 1012R	
12 CSR 30-2.018	State Tax Commission		24 MoReg 2702	25 MoReg 1012	
12 CSR 30-4.010	State Tax Commission		25 MoReg 296		
12 CSR 40-40.090	State Lottery		25 MoReg 392		
12 CSR 40-60.020	State Lottery		25 MoReg 393		
12 CSR 60-1.010	Motor Vehicle Commission		24 MoReg 2702R	25 MoReg 558R	
12 CSR 60-1.020	Motor Vehicle Commission		24 MoReg 2702R	25 MoReg 558R	
12 CSR 60-1.030	Motor Vehicle Commission		24 MoReg 2702R	25 MoReg 589R	
12 CSR 60-1.040	Motor Vehicle Commission		24 MoReg 2703R	25 MoReg 589R	
12 CSR 60-1.050	Motor Vehicle Commission		24 MoReg 2703R	25 MoReg 589R	
12 CSR 60-1.060	Motor Vehicle Commission		24 MoReg 2703R	25 MoReg 589R	
12 CSR 60-2.010	Motor Vehicle Commission		24 MoReg 2704R	25 MoReg 589R	
12 CSR 60-2.020	Motor Vehicle Commission		24 MoReg 2704R	25 MoReg 589R	
12 CSR 60-2.030	Motor Vehicle Commission		24 MoReg 2704R	25 MoReg 590R	
12 CSR 60-2.040	Motor Vehicle Commission		24 MoReg 2704R	25 MoReg 590R	
12 CSR 60-2.050	Motor Vehicle Commission		24 MoReg 2705R	25 MoReg 590R	
12 CSR 60-2.060	Motor Vehicle Commission		24 MoReg 2705R	25 MoReg 590R	
12 CSR 60-2.070	Motor Vehicle Commission		24 MoReg 2705R	25 MoReg 590R	
12 CSR 60-2.080	Motor Vehicle Commission		24 MoReg 2705R	25 MoReg 590R	
12 CSR 60-2.090	Motor Vehicle Commission		24 MoReg 2706R	25 MoReg 591R	
12 CSR 60-2.100	Motor Vehicle Commission		24 MoReg 2706R	25 MoReg 591R	
12 CSR 60-2.110	Motor Vehicle Commission		24 MoReg 2706R	25 MoReg 591R	
12 CSR 60-2.120	Motor Vehicle Commission		24 MoReg 2706R	25 MoReg 591R	
12 CSR 60-2.130	Motor Vehicle Commission		24 MoReg 2707R	25 MoReg 591R	
12 CSR 60-2.140	Motor Vehicle Commission		24 MoReg 2707R	25 MoReg 591R	
12 CSR 60-2.150	Motor Vehicle Commission		24 MoReg 2707R	25 MoReg 592R	
12 CSR 60-2.160	Motor Vehicle Commission		24 MoReg 2708R	25 MoReg 592R	
12 CSR 60-2.170	Motor Vehicle Commission		24 MoReg 2708R	25 MoReg 592R	
12 CSR 60-3.010	Motor Vehicle Commission		24 MoReg 2708R	25 MoReg 592R	
12 CSR 60-4.010	Motor Vehicle Commission		24 MoReg 2708R	25 MoReg 592R	
12 CSR 60-4.020	Motor Vehicle Commission		24 MoReg 2709R	25 MoReg 592R	
12 CSR 60-4.030	Motor Vehicle Commission		24 MoReg 2709R	25 MoReg 593R	
12 CSR 60-4.040	Motor Vehicle Commission		24 MoReg 2709R	25 MoReg 593R	
12 CSR 60-4.050	Motor Vehicle Commission		24 MoReg 2710R	25 MoReg 593R	
12 CSR 60-4.060	Motor Vehicle Commission		24 MoReg 2710R	25 MoReg 593R	
12 CSR 60-4.070	Motor Vehicle Commission		24 MoReg 2710R	25 MoReg 593R	
12 CSR 60-4.080	Motor Vehicle Commission		24 MoReg 2710R	25 MoReg 593R	
12 CSR 60-5.010	Motor Vehicle Commission		24 MoReg 2711R	25 MoReg 594R	
	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 15-4.050	Division of Aging		25 MoReg 666		
13 CSR 15-14.042	Division of Aging		25 MoReg 673		
13 CSR 15-15.022	Division of Aging		25 MoReg 855		
13 CSR 30-8.010	Child Support Enforcement		This Issue		
13 CSR 30-9.010	Child Support Enforcement		25 MoReg 674		
13 CSR 40-19.020	Division of Family Services	24 MoReg 2270	24 MoReg 2394	25 MoReg 594	
13 CSR 40-80.010	Division of Family Services		24 MoReg 2395	25 MoReg 594	
13 CSR 70-3.020	Medical Services		24 MoReg 1742		
13 CSR 70-3.030	Medical Services		24 MoReg 1743		
13 CSR 70-3.130	Medical Services		24 MoReg 1747		
13 CSR 70-10.110	Medical Services		25 MoReg 867		
13 CSR 70-15.010	Medical Services		24 MoReg 2408	25 MoReg 594	
			24 MoReg 2938		
			25 MoReg 204		
13 CSR 70-15.110	Medical Services		25 MoReg 988		
13 CSR 73-2.015	Board of Nursing Home Administrators	24 MoReg 2752	24 MoReg 2813	25 MoReg 722	
13 CSR 73-2.020	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2816	25 MoReg 723	
13 CSR 73-2.070	Board of Nursing Home Administrators	24 MoReg 2753	24 MoReg 2819	25 MoReg 723	
13 CSR 110-1.010	Division of Youth Services		25 MoReg 678		
13 CSR 110-2.010	Division of Youth Services		25 MoReg 678		
13 CSR 110-2.020	Division of Youth Services		25 MoReg 679		
13 CSR 110-2.030	Division of Youth Services		25 MoReg 679		
13 CSR 110-2.040	Division of Youth Services		25 MoReg 680		
13 CSR 110-2.050	Division of Youth Services		25 MoReg 681		
13 CSR 110-2.060	Division of Youth Services		25 MoReg 682		
13 CSR 110-2.070	Division of Youth Services		25 MoReg 682R		
13 CSR 110-2.080	Division of Youth Services		25 MoReg 683		
13 CSR 110-2.090	Division of Youth Services		25 MoReg 683R		

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13 CSR 110-2.100	Division of Youth Services		25 MoReg 684		
13 CSR 110-2.110	Division of Youth Services		25 MoReg 685		
13 CSR 110-2.120	Division of Youth Services		25 MoReg 685		
13 CSR 110-2.130	Division of Youth Services		25 MoReg 686		
13 CSR 110-2.140	Division of Youth Services		25 MoReg 686		
13 CSR 110-2.150	Division of Youth Services		25 MoReg 687		
13 CSR 110-3.010	Division of Youth Services		25 MoReg 687		
13 CSR 110-3.015	Division of Youth Services		25 MoReg 688		
13 CSR 110-3.020	Division of Youth Services		25 MoReg 688		
13 CSR 110-3.030	Division of Youth Services		25 MoReg 689		
13 CSR 110-3.040	Division of Youth Services		25 MoReg 690		
13 CSR 110-3.050	Division of Youth Services		25 MoReg 691		
13 CSR 110-3.060	Division of Youth Services		25 MoReg 693		
13 CSR 110-5.010	Division of Youth Services		25 MoReg 693		
13 CSR 110-6.010	Division of Youth Services		25 MoReg 694		
	ELECTED OFFICIALS				
15 CSR 60-11.010	Attorney General		24 MoReg 1103		
15 CSR 60-11.020	Attorney General		24 MoReg 1104		
	RETIREMENT SYSTEMS				
16 CSR 10-4.014	Public School Retirement System		24 MoReg 2822		25 MoReg 723
16 CSR 10-6.020	Public School Retirement System		25 MoReg 24		25 MoReg 1013
16 CSR 10-6.045	Public School Retirement System		24 MoReg 2822		25 MoReg 723
16 CSR 30-2.030	Missouri State Employees' Retirement System		25 MoReg 990R		
16 CSR 30-2.031	Missouri State Employees' Retirement System		25 MoReg 990R		
16 CSR 30-2.040	Missouri State Employees' Retirement System		25 MoReg 990R		
16 CSR 30-2.050	Missouri State Employees' Retirement System		25 MoReg 990R		
16 CSR 30-2.070	Missouri State Employees' Retirement System		25 MoReg 991R		
16 CSR 30-2.120	Missouri State Employees' Retirement System		25 MoReg 991R		
16 CSR 30-2.130	Missouri State Employees' Retirement System		25 MoReg 991R		
16 CSR 30-2.140	Missouri State Employees' Retirement System		25 MoReg 992R		
16 CSR 30-2.150	Missouri State Employees' Retirement System		25 MoReg 992R		
16 CSR 30-2.160	Missouri State Employees' Retirement System		25 MoReg 992R		
16 CSR 30-2.181	Missouri State Employees' Retirement System		25 MoReg 992R		
16 CSR 30-2.190	Missouri State Employees' Retirement System		25 MoReg 993R		
16 CSR 30-2.210	Missouri State Employees' Retirement System		25 MoReg 993R		
16 CSR 30-2.220	Missouri State Employees' Retirement System		25 MoReg 993R		
16 CSR 30-2.240	Missouri State Employees' Retirement System		25 MoReg 994R		
16 CSR 30-2.241	Missouri State Employees' Retirement System		25 MoReg 994R		
16 CSR 30-2.242	Missouri State Employees' Retirement System		25 MoReg 994R		
16 CSR 30-2.250	Missouri State Employees' Retirement System		25 MoReg 995R		
16 CSR 30-2.260	Missouri State Employees' Retirement System		25 MoReg 995R		
16 CSR 30-2.270	Missouri State Employees' Retirement System		25 MoReg 995R		
16 CSR 30-2.280	Missouri State Employees' Retirement System		25 MoReg 996R		
16 CSR 30-2.285	Missouri State Employees' Retirement System		25 MoReg 996R		
16 CSR 30-2.290	Missouri State Employees' Retirement System		25 MoReg 996R		
16 CSR 30-2.300	Missouri State Employees' Retirement System		25 MoReg 996R		
16 CSR 30-2.310	Missouri State Employees' Retirement System		25 MoReg 997R		
16 CSR 30-2.311	Missouri State Employees' Retirement System		25 MoReg 997R		
16 CSR 30-2.320	Missouri State Employees' Retirement System		25 MoReg 997R		
16 CSR 30-2.330	Missouri State Employees' Retirement System		25 MoReg 998R		
16 CSR 50-1.010	The County Employees' Retirement Fund		This Issue		
16 CSR 50-1.020	The County Employees' Retirement Fund		This Issue		
16 CSR 50-1.030	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.010	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.020	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.030	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.035	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.040	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.050	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-2.060	The County Employees' Retirement Fund		This IssueR		
16 CSR 50-2.080	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.090	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.100	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.110	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.120	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.130	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.140	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.150	The County Employees' Retirement Fund		This Issue		
16 CSR 50-2.160	The County Employees' Retirement Fund		This Issue		
16 CSR 50-3.010	The County Employees' Retirement Fund		This IssueR This Issue		
16 CSR 50-3.020	The County Employees' Retirement Fund		This IssueR		
16 CSR 50-3.030	The County Employees' Retirement Fund		This IssueR		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
16 CSR 50-3.040	The County Employees' Retirement Fund		This IssueR		
16 CSR 50-3.050	The County Employees' Retirement Fund		This IssueR		
16 CSR 50-3.060	The County Employees' Retirement Fund		This Issue		
16 CSR 50-3.070	The County Employees' Retirement Fund		This Issue		
16 CSR 50-3.080	The County Employees' Retirement Fund		This IssueR		
16 CSR 50-3.090	The County Employees' Retirement Fund		This IssueR		
	BOARDS OF POLICE COMMISSIONERS				
17 CSR 10-2.010	Kansas City Board of Police Commissioners		25 MoReg 393R		
			25 MoReg 393		
17 CSR 10-2.020	Kansas City Board of Police Commissioners		25 MoReg 400R		
			25 MoReg 400		
17 CSR 10-2.030	Kansas City Board of Police Commissioners		25 MoReg 404R		
			25 MoReg 404		
17 CSR 10-2.040	Kansas City Board of Police Commissioners		25 MoReg 405R		
			25 MoReg 405		
17 CSR 10-2.050	Kansas City Board of Police Commissioners		25 MoReg 413R		
			25 MoReg 413		
17 CSR 10-2.055	Kansas City Board of Police Commissioners		25 MoReg 418R		
			25 MoReg 418		
17 CSR 10-2.060	Kansas City Board of Police Commissioners		25 MoReg 423R		
			25 MoReg 423		
	DEPARTMENT OF HEALTH				
19 CSR 10-5.010	Office of the Director		25 MoReg 24	25 MoReg 1013	
19 CSR 30-60.010	Division of Health Standards and Licensure	25 MoReg 753	25 MoReg 870		
19 CSR 30-60.020	Division of Health Standards and Licensure	25 MoReg 753	25 MoReg 870		
19 CSR 30-60.030	Division of Health Standards and Licensure	25 MoReg 754	25 MoReg 873		
19 CSR 30-60.040	Division of Health Standards and Licensure	25 MoReg 754	25 MoReg 876		
19 CSR 30-60.050	Division of Health Standards and Licensure	25 MoReg 755	25 MoReg 876		
19 CSR 30-60.060	Division of Health Standards and Licensure	25 MoReg 755	25 MoReg 876		
19 CSR 30-60.070	Division of Health Standards and Licensure	25 MoReg 756	25 MoReg 879		
19 CSR 30-60.080	Division of Health Standards and Licensure	25 MoReg 756	25 MoReg 879		
19 CSR 30-60.090	Division of Health Standards and Licensure	25 MoReg 756	25 MoReg 881		
19 CSR 30-60.100	Division of Health Standards and Licensure	25 MoReg 757	25 MoReg 884		
19 CSR 30-60.110	Division of Health Standards and Licensure	25 MoReg 757	25 MoReg 884		
19 CSR 30-60.120	Division of Health Standards and Licensure	25 MoReg 758	25 MoReg 884		
19 CSR 30-62.087	Division of Health Standards and Licensure	25 MoReg 758	25 MoReg 884		
19 CSR 40-3.010	Maternal, Child and Family Health		25 MoReg 694		
19 CSR 40-13.010	Maternal, Child and Family Health		24 MoReg 515		
19 CSR 40-13.020	Maternal, Child and Family Health		24 MoReg 526		
19 CSR 40-13.030	Maternal, Child and Family Health		24 MoReg 527		
19 CSR 60-50	Missouri Health Facilities Review				24 MoReg 2243
					24 MoReg 2721
19 CSR 60-50.300	Missouri Health Facilities Review		25 MoReg 206		
19 CSR 60-50.310	Missouri Health Facilities Review		24 MoReg 2823	25 MoReg 1029	
19 CSR 60-50.420	Missouri Health Facilities Review				25 MoReg 116
					25 MoReg 329
					25 MoReg 447
					25 MoReg 897
					This Issue
19 CSR 60-50.470	Missouri Health Facilities Review		24 MoReg 2825		
			25 MoReg 207	25 MoReg 723	
19 CSR 60-50.700	Missouri Health Facilities Review		24 MoReg 2825	25 MoReg 723	
	DEPARTMENT OF INSURANCE				
20 CSR	Medical Malpractice				23 MoReg 514
					24 MoReg 682
					25 MoReg 597
	Sovereign Immunity Limits				25 MoReg 724
20 CSR 500-6.700	Property and Casualty		This Issue		
20 CSR 500-7.200	Property and Casualty		24 MoReg 1587		
	MISSOURI CONSOLIDATED HEALTH CARE PLAN				
22 CSR 10-2.010	Health Care Plan	25 MoReg 7	25 MoReg 41	25 MoReg 1029	
22 CSR 10-2.020	Health Care Plan	25 MoReg 7	25 MoReg 41	25 MoReg 1029	
22 CSR 10-2.040	Health Care Plan	25 MoReg 8	25 MoReg 42	25 MoReg 1029	
			25 MoReg 145T		
			25 MoReg 145		
			25 MoReg 631T		
			25 MoReg 631		
22 CSR 10-2.050	Health Care Plan	25 MoReg 9	25 MoReg 45	25 MoReg 1030	
22 CSR 10-2.060	Health Care Plan	25 MoReg 10	25 MoReg 45	25 MoReg 1030	
22 CSR 10-2.063	Health Care Plan	25 MoReg 12	25 MoReg 47	25 MoReg 1030	
			25 MoReg 146T		
			25 MoReg 146		
22 CSR 10-2.075	Health Care Plan	25 MoReg 13	25 MoReg 49	25 MoReg 1030	

Emergency Rules in Effect as of May 1, 2000 — Expires

Office of Administration

Commissioner of Administration

1 CSR 10-15.010	Cafeteria Plan	June 28, 2000

Department of Agriculture

State Milk Board

2 CSR 80-2.180	Adoption of the *Grade A Pasteurized Milk Ordinance* with Administrative Procedures—Recommendations of the United States Public Health Service/Food and Drug Administration (PMO)	May 1, 2000

Department of Transportation

Missouri Highways and Transportation Commission

7 CSR 10-2.010	Overdimension and Overweight Permits	May 16, 2000
7 CSR 10-2.010	Overdimension and Overweight Permits	May 16, 2000
7 CSR 10-10.010	Definitions	May 16, 2000
7 CSR 10-10.040	Contractor Performance Questionnaire Used in Evaluating Contractor Performance	May 16, 2000
7 CSR 10-10.050	Procedure and Schedule for Completing the Contractor Performance Questionnaire	May 16, 2000
7 CSR 10-10.070	Procedure for Annual Rating of Contractors	May 16, 2000
7 CSR 10-14.020	Definitions	August 15, 2000
7 CSR 10-14.030	Application for Participation	August 15, 2000
7 CSR 10-14.040	Agreements; Responsibilities of Adopter and Commission	August 15, 2000

Department of Natural Resources

Air Conservation Commission

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